

## SENATE.

WEDNESDAY, December 17, 1902.

Rev. F. L. DAY, Ph. D., of Columbian University, Washington, D. C., offered the following prayer:

Almighty God, our Heavenly Father, Thou art eternal, and the only wise God. All the hosts of Heaven and all the varied inhabitants of the earth are the creatures of Thy hand. We owe allegiance to Thee, Thou great Lawgiver of the earth.

We pray thy blessing upon us this day, especially upon those who sorrow because of the hand of death. May we all remember that we are but passing shadows of the day and must soon fade from earth. Keep us ever under the watchful eye of the Almighty, we ask in His name. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. FOSTER of Washington, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

## URGENT DEFICIENCY APPROPRIATION BILL.

Mr. HALE. Mr. President, I gave notice yesterday that after the reading of the Journal to-day I would ask the Senate to take up the urgent deficiency appropriation bill. I make the request now, because directly after the routine morning business the resolutions in charge of the Senator from New Jersey [Mr. KEAN] will be in order and there will be no opportunity then. It is desirable that the bill should be passed now.

The PRESIDENT pro tempore. The Senator from Maine moves that the Senate proceed to the consideration of the bill (H. R. 16037) making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1903.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Appropriations with an amendment.

Mr. HALE. I ask that the formal reading of the bill be dispensed with and that the bill be read, amendments to be considered while the reading proceeds.

The PRESIDENT pro tempore. The Senator from Maine asks that the formal reading of the bill be dispensed with and that amendments shall receive consideration as the bill is read. Is there objection? The Chair hears none. The Secretary will read the bill.

The Secretary read the bill.

The amendment of the Committee on Appropriations was to add at the end of the bill the following:

## SENATE.

For miscellaneous items, exclusive of labor, fiscal year 1902, \$2,400.

The amendment was agreed to.

Mr. HALE. I offer an amendment which would have been put on in the House, but it did not come in in time, and it has been sent here with the request that we put it on.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 2, after line 5, insert:

## WAR DEPARTMENT.

Buildings and grounds in and around Washington: For extra steps and mosaic work at the base of the Sherman statue pedestal, and for each and every purpose connected therewith, \$8,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

## ADJOURNMENT TO SATURDAY.

Mr. HALE. After the arrangement which was made yesterday, that the contested measure involving statehood should go over until after the holidays, many Senators left town. It is evident that there will be no quorum of the Senate here either tomorrow or the next day, and to-day is to be taken up by eulogies. Under these conditions it will be a matter of convenience, I think, to almost every Senator that a few of us shall not be called here each morning.

Therefore I move, not to interfere with to-day's session, that when the Senate adjourns to-day it be to meet on Saturday, on which day we must adjourn until after the holidays.

The PRESIDENT pro tempore. The Senator from Maine moves that when the Senate adjourns to-day it be to meet on Saturday at 12 o'clock.

Mr. SPOONER. With the understanding that no business shall be transacted on Saturday?

Mr. HALE. There has been no understanding about that. It always regulates itself. There will be enough Senators here to transact business.

Mr. ALLISON. I suggest to the Senator from Maine that there are one or two little conference reports which ought to be disposed of either on Saturday, or certainly before we adjourn for the holidays. I allude particularly to the conference report on the bill making an appropriation for the payment of the Anthracite Coal Arbitration Commission.

Mr. HALE. I suppose we can do that on Saturday. I have no feeling about this matter. I make the suggestion only because Senators are away and can not be here, and if a few of us come either to-morrow or the next day there will be no business done, evidently.

Mr. HOAR. I should like, before that arrangement is made, to ask unanimous consent. I may introduce a bill for reference to the Committee on the Judiciary and hand the bill to the clerks some time before the expiration of the week, and I ask that it may then be printed. It is a bill that I am sure no Senator will care to make any question about. It is merely the introduction of a bill which I have not been able to get ready and which I am very anxious to get ready and to have printed before the adjournment for the holidays. I ask unanimous consent that that may be done.

Mr. HALE. To introduce it as of this date?

Mr. HOAR. Yes.

The PRESIDENT pro tempore. Can the Senator from Massachusetts give the Secretary the title of the bill?

Mr. HOAR. It is a bill in relation to trusts. I do not know about the exact title of the bill. I ask leave to treat it as if introduced and read the first and second time and referred to the Committee on the Judiciary.

The PRESIDENT pro tempore. If there be no objection, the order which the Senator from Massachusetts desires will be made. The Chair hears none.

The Senator from Maine moves that when the Senate adjourns to-day it adjourn to meet on Saturday at 12 o'clock. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

## REPORT OF THE COAST AND GEODETIC SURVEY.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, a report from the Superintendent of the Coast and Geodetic Survey, showing the progress in that work during the year ended June 30, 1902. The communication is accompanied by a large number of papers and maps, and the Chair suggests that the communication be printed and that it, with the papers and maps, be referred, without printing, to the Committee on Printing. Is there objection? The Chair hears none. It will be so ordered.

## REPORT OF THE INTERSTATE COMMERCE COMMISSION.

The PRESIDENT pro tempore laid before the Senate the Sixteenth Annual Report of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce, and ordered to be printed.

## SHIP BRISEIS.

The PRESIDENT pro tempore laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court relating to the vessel ship *Briseis*, James Breath, master; which, with the accompanying papers, was referred to the Committee on Claims, and ordered to be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed with an amendment the bill (S. 4617) to authorize the resurvey of certain lands in the State of Wyoming in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 15605) to authorize and empower the Southwest Louisiana Rice Growers' Association, of the State of Louisiana, to construct a lock or locks and a dam in Bayou Vermilion, in the State of Louisiana;

A bill (H. R. 15606) to authorize and empower the Rice Irrigation and Improvement Association, of the State of Louisiana, to construct a lock or locks and a dam at Mermentau River, in the State of Louisiana; and

A bill (H. R. 15922) making an appropriation for the suppression and to prevent the spread of contagious and infectious diseases of live stock, and for other purposes.

## PETITIONS AND MEMORIALS.

Mr. LODGE. I present a protest of the Central Labor Union, of Gloucester, Mass., and also one from the Gloucester Master Mariners' Association, of Massachusetts, relative to the treaty

with Newfoundland. The memorials are very brief, and I ask that they may be printed in the RECORD, and also as a document, and referred to the Committee on Foreign Relations.

There being no objection, the memorials were referred to the Committee on Foreign Relations, ordered to be printed as a document, and to be printed in the RECORD, as follows:

At a meeting of the Central Labor Union of Gloucester, Mass., held December 14, 1902, the following resolutions were unanimously adopted:

"Resolved, That the ratification of the treaty with Newfoundland now under consideration in the Senate of the United States, and providing, among other things, for the admission to this country free of duty of the product of the Newfoundland fisheries, would be a death blow to the industries of our city and a calamity to every laboring man living therein.

"Resolved, That this union protest against the ratification of said treaty and ask the Senators from this State to do everything in their power to prevent said ratification.

"Resolved, That a copy of these resolutions be forwarded to Senator LODGE, with the request that he submit them to the Senate Committee on Foreign Relations."

SIDNEY G. PARSONS, *President.*

GERARD M. KINCADE,

*Secretary of the C. L. U. of Gloucester.*

GLoucester MASTER MARINERS' ASSOCIATION,  
Gloucester, Mass.

At a special meeting held in the rooms of the Gloucester Master Mariners' Association, December 13, 1902, to consider the Bond-Hay treaty, it was unanimously voted:

That we most earnestly protest against the ratification by the United States of the proposed treaty. There can be but one result should the treaty be ratified. It means practically the total annihilation of the New England fisheries, as well as the fisheries of the United States. It would seem, before a treaty was made, it would have been only fair to have consulted with the people directly connected and vitally interested in this matter.

It has always been the policy of this Government, in common with many others, to foster the fisheries, but this treaty, if carried into effect, will destroy them. We fail to see what section of this country is to be benefited to any considerable extent by the proposed treaty, and even if it was so, it certainly is not an act of justice to sacrifice one interest to benefit another.

Voted: That Capts. Charles H. Harty and Henry Gardner appear before the Senate Committee on Foreign Relations at the hearing given by them on Wednesday, December 17, and that a copy of these resolutions be presented to them.

CHARLES H. HARTY, *President.*  
T. H. G. DOUGLASS, *Secretary.*

Mr. FAIRBANKS presented a petition of Bricklayers and Masons' International Union No. 16, American Federation of Labor, of Alexandria, Ind., praying for the passage of the so-called eight-hour bill; which was referred to the Committee on Education and Labor.

He also presented a petition of the directory of the National Federation of Civic Rights, of New Albany, Ind., praying for the adoption of certain amendments to the bill providing for the creation of a commission to inquire into the condition of the colored people of the United States; which was referred to the Committee on Education and Labor.

He also presented a petition of the Richmond Art Association, of Richmond, Ind., praying for the adoption of certain amendments to the tariff law relative to the duty on objects of art; which was referred to the Committee on Finance.

He also presented petitions of the Presbytery of Columbus, Ohio; of the Madison Presbytery, of Cottage Grove, Wis., and of the Presbytery of Washington, D. C., praying for the establishment of a laboratory for the study of the criminal, pauper, and defective classes; which were referred to the Committee on the Judiciary.

Mr. DEPEW presented the petition of E. Dauphinot, J. W. Russell, and sundry other citizens of New York, N. Y., praying for the enactment of legislation to amend the internal-revenue laws relating to a reduction of the tax on distilled spirits; which was referred to the Committee on Finance.

Mr. FOSTER of Washington presented a petition of the Chamber of Commerce of Everett, Wash., praying for the enactment of legislation providing an educational test for immigrants to this country; which was ordered to lie on the table.

He also presented a petition of the Presbytery of Olympia, Wash., praying for the establishment of a laboratory for the study of the criminal, pauper, and defective classes; which was referred to the Committee on the Judiciary.

Mr. DRYDEN presented the memorial of J. J. Stanton, of Sussex, N. J., remonstrating against the enactment of legislation to increase the postage on monthly publications; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CLARK of Montana presented a petition of 34 citizens of Jefferson County, Mont., praying for the enactment of legislation to amend the internal-revenue law relative to a reduction of the tax on distilled spirits; which was referred to the Committee on Finance.

Mr. FRYE presented the memorial of S. W. Wheeler, of Marlboro, Mass., remonstrating against the slaughter of cattle suffering with foot-and-mouth disease; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Interstate National Guard Association of Washington, D. C., praying for the enactment of

legislation to increase the efficiency of the militia; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. FOSTER of Washington, from the Committee on Pensions, to whom was referred the bill (H. R. 5205) granting an increase of pension to Hiram S. Leffingwell, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (H. R. 10010) granting a pension to Mina Weirauch, reported it without amendment, and submitted a report thereon.

Mr. GAMBLE, from the Committee on Public Lands, to whom was referred the bill (H. R. 11572) for the relief of certain settlers upon Wisconsin Central Railroad and The Dalles military road land grants, reported it without amendment, and submitted a report thereon.

Mr. McLAURIN of Mississippi, from the Committee on Public Lands, to whom was referred the bill (S. 5561) for the relief of S. R. Green, reported it without amendment, and submitted a report thereon.

Mr. TALIAFERRO, from the Committee on Pensions, to whom was referred the bill (H. R. 13174) granting an increase of pension to Ransford T. Chase, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 6514) granting an increase of pension to Stephen J. Houston, reported it with an amendment, and submitted a report thereon.

He also (for Mr. CARMACK), from the Committee on Pensions, to whom was referred the bill (H. R. 622) granting a pension to Dicey Woodall, reported it with an amendment, and submitted a report thereon.

He also (for Mr. CARMACK), from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 624) granting a pension to Dorcas McArdle;

A bill (H. R. 13891) granting a pension to Hiram A. Sheldon; and

A bill (H. R. 7239) granting an increase of pension to William Christian.

Mr. PETTUS, from the Committee on the Judiciary, to whom was referred the bill (H. R. 14839) providing that the circuit court of appeals of the fifth judicial circuit of the United States shall hold at least one term of said court annually in the city of Montgomery, in the State of Alabama, on the first Monday in September of each year, reported it without amendment.

THOMAS STARRAT.

Mr. TALIAFERRO. I am directed by the Committee on Pensions, to whom was referred the bill (S. 6492) granting an increase of pension to Thomas Starrat, to report it with amendments, and I ask for its present consideration.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments of the Committee on Pensions were, in line 4, after the word "roll," to insert a comma and the words "subject to the provisions and limitations of the pension laws;" and in line 5, after the word "company," to insert "and Lieut. Cornelius Taylor's company;" so as to make the bill read:

*Be it enacted, etc.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Thomas Starrat, late of Capt. William Ross's company and Lieut. Cornelius Taylor's company, Florida Volunteers, Seminole Indian war, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSION APPROPRIATION BILL.

Mr. GALLINGER. I am directed by the Committee on Pensions, to whom was referred the bill (H. R. 15593) making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1904, and for other purposes, to report it without amendment. I give notice, Mr. President, that I shall endeavor to-morrow morning to call up the bill for consideration.

The PRESIDENT pro tempore. The Senator means Saturday morning? There will be no session to-morrow.

Mr. GALLINGER. Unless there be objection, I should like to have the bill now considered. I shall not return to Washington immediately after the new year. The bill is in the usual form, carrying the usual appropriation. It passed the other House, I will say, without a word of discussion, and I think it will take but a moment to pass it.



There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### PUBLIC BUILDING AT MUSKEGON, MICH.

Mr. FAIRBANKS. I am directed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. 6399) to amend an act entitled "An act to increase the limit of cost of certain public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June 6, 1902, to report it without amendment, and I ask for the present consideration of the bill.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to repeal so much of section 3 of the act entitled "An act to increase the limit of cost of certain public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June 6, 1902, as restricts the selection of a site for a post-office and custom-house at Muskegon, Mich., to certain lots in a certain block in that city.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. DRYDEN introduced a bill (S. 6639) for the promotion of First Lieut. Thomas Mason, Revenue-Cutter Service; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BURROWS introduced a bill (S. 6640) to provide for and create a judicial district in the State of Michigan, to be designated as the northeastern district of Michigan, and for the appointment of a district judge and other officers therein, and for the holding of courts therein; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DEPEW introduced a bill (S. 6641) granting an increase of pension to Sophie S. Shaffer; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6642) to provide for the issuance of emergency circulation; which was read twice by its title, and referred to the Committee on Finance.

He also introduced a bill (S. 6643) to provide United States registry for the steamer Success; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Commerce.

Mr. PENROSE introduced a bill (S. 6644) providing for an increase in the number of pharmacists in the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

He also introduced a bill (S. 6645) for the relief of Hamilton D. South; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Naval Affairs.

Mr. FAIRBANKS introduced a bill (S. 6646) granting an increase of pension to W. T. Swift; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. KEARNS introduced a bill (S. 6647) granting a pension to James Phelps; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6648) granting a pension to Sarah Grace Meacham; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MCENERY introduced a bill (S. 6649) for the relief of the estate of J. Madison Wells, deceased; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PERKINS introduced a bill (S. 6650) for the relief of the holders of certain California Indian war bonds and coupons; which was read twice by its title, and referred to the Committee on Claims.

Mr. BURNHAM introduced a bill (S. 6651) granting a pension to Verona Harriman; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6652) granting an increase of pension to Leander W. Cogswell; which was read twice by its title, and referred to the Committee on Pensions.

Mr. NELSON introduced a bill (S. 6653) granting a pension to Halvor Paulsen; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MASON introduced a bill (S. 6654) for the relief of Judd O. Hartzell; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

He also introduced a bill (S. 6655) for the relief of James Baker; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 6656) granting an increase of pension to La Roy B. Church; which was read twice by its title, and,

with the accompanying paper, referred to the Committee on Pensions.

Mr. FRYE introduced a bill (S. 6657) granting an increase of pension to Jennet Thoits; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 6658) referring to the Court of Claims the claim of the Shoshone Indians to title in all of the Wind River Reservation, and so forth; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. HOAR introduced a bill (S. 6659) for the regulation of trusts or corporations engaged in international or interstate commerce; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 6660) for the relief of Old Thorntons Gap Baptist Church, in Rappahannock County, Va.;

A bill (S. 6661) for the relief of the trustees of Braddock Street Methodist Episcopal Church, of Winchester, Va.;

A bill (S. 6662) for the relief of the trustees of the Evangelical Lutheran Church, of Strasburg, Va.;

A bill (S. 6663) for the relief of the Presbyterian Church of Woodstock, Shenandoah County, Va.; and

A bill (S. 6664) for the relief of the trustees of the Centenary Reformed Church, of Winchester, Va.

#### AMENDMENTS TO APPROPRIATION BILLS.

Mr. GAMBLE submitted an amendment proposing to appropriate \$20,200 for the survey of lands and clerical work, etc., incident thereto, within the Pine Ridge Indian Reservation, S. Dak., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also submitted an amendment proposing to increase the salary of the United States consul at Beirut, Syria, to \$3,000, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also submitted an amendment proposing to increase the salary of the United States consul-general at Munich, Germany, to \$3,000, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

#### SALARIES OF POSTMASTERS IN ILLINOIS.

Mr. MASON submitted the following resolution; which, with the accompanying papers, was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed:

*Resolved by the Senate,* That the Postmaster-General be, and he hereby is, directed to report to the Senate the amount of salary required to be paid to each of the postmasters in the State of Illinois named on the memorandum schedule hereto attached, or to their heirs, for service as postmaster in each biennial term specified on such memorandum schedule, in order to make effective sections 473, 474, and 475 of the Postal Regulations of 1866 and the act of June 12, 1883, section 8, and the act of March 3, 1883, as construed by Postmaster-General Gresham in an order dated June 9, 1883, addressed to Hon. Frank Hatton, First Assistant Postmaster-General, and in a declaration as to the intent, meaning, and requirement of said statutes furnished for publication to the press through Chief Clerk Walker on February 16, 1884, and printed as Exhibit A; Senate Executive Document No. 146, Forty-ninth Congress, first session.

#### HEARINGS ON BILL TO REGULATE IMMIGRATION.

Mr. PENROSE. I submit a resolution for which I ask present consideration.

The resolution was read, as follows:

*Resolved,* That there be printed for the use of the Committee on Immigration 5,000 copies of Senate Report No. 2119, first session Fifty-seventh Congress, accompanied by additional statements made before the Committee on Immigration on the bill (H. R. 12199) to regulate the immigration of aliens into the United States.

The PRESIDENT pro tempore. Will the printing cost more than \$500?

Mr. PENROSE. I am informed that the cost will not exceed \$500, and there is very great demand for the hearings on this exceedingly important bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent, and agreed to.

#### ISTHMIAN CANAL.

Mr. MORGAN. Mr. President, I desire to give notice that on Saturday when the Senate meets I shall ask it to take up the bill (S. 451) to provide for acquiring the rights necessary for the construction of a canal connecting the waters of the Atlantic and Pacific oceans, for the purpose of making some remarks upon that measure.

## RESURVEY OF LANDS IN WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 4617) to authorize a resurvey of certain lands in the State of Wyoming, and for other purposes.

The amendment was, on page 1, line 6, after the word "ranges," to insert "ninety-three, ninety-four, ninety-five, ninety-six."

Mr. WARREN. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

## HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. 15605) to authorize and empower the Southwest Louisiana Rice Growers' Association, of the State of Louisiana, to construct a lock or locks and a dam in Bayou Vermilion, in the State of Louisiana; and

A bill (H. R. 15606) to authorize and empower the Rice Irrigation and Improvement Association, of the State of Louisiana, to construct a lock or locks and a dam in Mermentau River, in the State of Louisiana.

The bill (H. R. 15922) making an appropriation for the suppression and to prevent the spread of contagious and infectious diseases of live stock, and for other purposes, was read twice by its title, and referred to the Committee on Agriculture and Forestry.

## ROBERT A. CHAPMAN.

Mr. PETTUS. I ask unanimous consent for the present consideration of the bill (S. 6231) authorizing Robert A. Chapman, of Alabama, his associates and assigns, to use the waters of the Coosa River in Alabama for the purpose of generating electricity.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Commerce with amendments.

The first amendment was, in section 1, page 2, line 3, after the word "dam," to insert "and appurtenant works;" so as to make the additional proviso read:

*And provided further,* That the said Robert A. Chapman and his associates shall, at their own expense, make such changes and modifications of said dam and appurtenant works as the Secretary of War may from time to time direct in the interest of the navigation of said river.

The amendment was agreed to.

The next amendment was, in section 1, on page 2, line 9, after the word "Commissioner," to insert the following proviso:

*And provided further,* That this act shall not be construed as authorizing any invasion or impairment of the legal rights of any person or corporation, and any litigation that may arise from the construction and maintenance of said dam or its appurtenant works may be tried in the proper courts of the State of Alabama and the courts of the United States.

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 16, after the word "That," to strike out the words "the United States reserves," and in line 17 to strike out the words "change, modify," and insert "alter, amend," and in the same line, after the word "act," to insert "is hereby expressly reserved;" so as to make the section read:

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

The next amendment was to add as an additional section the following:

SEC. 3. That this act shall be null and void unless the dam herein authorized shall be commenced within two years from the date hereof.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

## JAMES M. CHISHAM.

Mr. BURTON. I desire to have unanimous consent to put the bill (H. R. 4471) for the relief of James M. Chisham on its passage.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to reimburse the sum of \$708.99 to James M. Chisham for loss sustained by him as postmaster at Atchison, Kans., on account of the failure of the Atchison National Bank, of Atchison, Kans., where he had the funds of the Government on deposit as postmaster.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## EFFICIENCY OF THE MILITIA.

Mr. PROCTOR. I move that the bill (H. R. 15345) to promote the efficiency of the militia, and for other purposes, be now proceeded with.

Mr. BACON. I ask the Senator to yield to me just a moment. There are two short pension bills that I desire to call up. It will not take a moment.

Mr. PROCTOR. Let the militia bill be laid before the Senate, and then I will yield to the Senator from Georgia.

The PRESIDENT pro tempore. The Senator from Vermont moves that the Senate proceed to the consideration of the bill (H. R. 15345) to promote the efficiency of the militia, and for other purposes.

The motion was agreed to.

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Georgia?

Mr. PROCTOR. I do.

## CORNELIA A. DENNIS.

Mr. BACON. I ask unanimous consent for the present consideration of the bill (H. R. 11893) granting an increase of pension to Cornelia A. Dennis.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension roll the name of Cornelia A. Dennis, widow of Green K. Dennis, late of Company F, First Regiment Texas Mounted Volunteers, war with Mexico, and to pay her a pension at the rate of \$16 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## MARY A. E. SCOTT.

Mr. BACON. I ask unanimous consent for the present consideration of the bill (H. R. 13449) granting an increase of pension to Mary A. E. Scott.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension roll the name of Mary A. E. Scott, widow of James H. Scott, late of Captain Sledge's company, Georgia Volunteers, Creek Indian war, and to pay her a pension at the rate of \$12 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## PORT OF WILMINGTON, N. C.

Mr. SIMMONS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from North Carolina?

Mr. PROCTOR. The Senator from Georgia [Mr. BACON] has the floor on the militia bill, and at the conclusion of his remarks I shall be glad to yield to the Senator from North Carolina.

Mr. SIMMONS. Do I understand that the Senator from Vermont has yielded to me?

The PRESIDENT pro tempore. The Senator from Vermont stated that the Senator from Georgia has the floor.

Mr. SIMMONS. Will the Senator from Georgia yield?

Mr. BACON. I yield, with the consent of the Senator from Vermont.

Mr. SIMMONS. I ask for the immediate consideration of the bill (H. R. 14801) to make Wilmington, N. C., a port through which merchandise may be imported for transportation without appraisement.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment.

Mr. SPOONER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin rise to this bill?

Mr. SPOONER. I rose to ask what committee reported the bill?

The PRESIDENT pro tempore. The Senate Committee on Commerce.

The bill was ordered to a third reading, read the third time, and passed.

## TREATY WITH NEWFOUNDLAND.

Mr. CULLOM. I ask that an order be made for the printing, as a public document for the use of the Senate, of the treaty with Newfoundland. It has already been made public.

The PRESIDENT pro tempore. The Senator from Illinois asks that the treaty known as the Newfoundland treaty be printed as a document for the use of the Senate. Is there objection? The Chair hears none, and that order is made.



## EFFICIENCY OF THE MILITIA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15345) to promote the efficiency of the militia, and for other purposes.

Mr. BACON. Mr. President, at the time the Senate left the consideration of this subject on yesterday I was engaged in the discussion of the bill, and was upon the immediate point whether this volunteer reserve was one which could only be used in case of some legislation hereafter made authorizing the President to use it. I had called the attention of the Senate to the proposition that if this force was put at the service of the President, any use of it, whether that use was authorized by statute heretofore made or one passed hereafter, would be a lawful use to which the President could apply this force.

Mr. PROCTOR. Mr. President—

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Does the Senator from Georgia yield to the Senator from Vermont?

Mr. BACON. Certainly.

Mr. PROCTOR. The Senator will see from the early part of the section itself that no use can be made of the force until its service is called for and it is organized under the authority of Congress.

Mr. BACON. Will the Senator please call attention to the particular words with reference to that?

Mr. PROCTOR. Beginning in line 12, on page 15, at the beginning of section 24—

Mr. BACON. Will the Senator please read the language to which he refers, so that I may discuss it?

Mr. PROCTOR. It is as follows:

That for the purpose of providing a reserve force of trained men which shall be ready for immediate service whenever called for and organized under authority of Congress—

Mr. MALLORY. May I interrupt the Senator a moment?

Mr. PROCTOR. Certainly.

Mr. MALLORY. I should like to ask the Senator from Vermont if he construes that language to mean that they shall be called for by authority of Congress; in other words, that the President alone can not call for them?

Mr. PROCTOR. The call has always been authorized by Congress.

Mr. MALLORY. Beginning in the nineteenth line of the section, this language occurs:

Such reserve force shall be designated as the National Volunteer Reserve, and when called forth by the President shall serve wherever ordered, within or without the territory of the United States.

Does not that imply that it is the intention of Congress to authorize the President, without the intervention of Congress, to call forth these troops at any time he sees proper?

Mr. PROCTOR. Those provisions must plainly be interpreted together. The President can make the call when so authorized by Congress.

Mr. MALLORY. I doubt very much, Mr. President, whether that construction would be put upon it.

Mr. BACON. In the same section the language plainly indicates that no specific act of Congress will be necessary in order to authorize the use of this force.

Mr. SPOONER. I desire to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. I do.

Mr. SPOONER. Does the Senator understand that under section 24 as amended there is any authority under this bill for the organization of this national volunteer reserve force?

Mr. BACON. The language of the section remaining after the elimination under the amendment offered by the Senator from Ohio [Mr. FORAKER] is indefinite and not specific, from the fact that the language which applied to part of it is now omitted by reason of that elimination; but the Senator will perceive that the language of this section if enacted into a statute will be this:

Sec. 24. That for the purpose of providing a reserve force of trained men which shall be ready for immediate service whenever called for and organized under authority of Congress, the Secretary of War is authorized to apportion among the several States and Territories and to enroll not exceeding 100,000 men, who shall have served in the Regular or Volunteer armies of the United States or in the organized militia. Such reserve force shall be designated as the national volunteer reserve, and when called forth by the President shall serve wherever ordered, within or without the territory of the United States. Such enrollment shall in each case continue for a period of five years, but in the event they shall be called into the service of the United States, other than for the purpose of drill, inspection, and instruction, they shall be entitled to be discharged at the close of the war or after nine months' service.

Now, omitting the next paragraph, which relates to the volunteer force other than that which is immediately under consideration, the same section has this language:

Whenever a volunteer force shall be called for by authority of Congress exceeding in number the companies, troops, batteries, battalions, and regi-

ments of the organized militia which shall enlist in bodies pursuant to the provisions of section 6 of the act entitled "An act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," approved April 22, 1898, the persons so enrolled as a reserve force of trained men, or so many thereof as shall be required, shall be organized in the manner provided for the organization of the volunteer force by section 12 of the act entitled "An act for increasing the efficiency of the Army of the United States, and for other purposes," approved March 2, 1899.

Another section in the bill provides how these troops shall be officered through appointments by the President of the United States, and still another provision of the bill says that the men enrolled under section 24 shall not be eligible to belong to the militia organized in the State.

Mr. President, I have read that at length for the purpose of answering the inquiry of the learned Senator from Wisconsin, and by it it will be seen that provision is made for the organization of this force without further legislation. In other words, the act under which the organization is to be made has already been enacted and is upon the statute book, and this act provides that the force shall be organized under that act. So I think that answers the inquiry made by the Senator, if I understood the inquiry correctly. In other words, Mr. President, it is not necessary that there shall be an act passed providing the manner in which this force shall be organized. The act of 1899 is specified as furnishing the machinery under which such organization is to be made without further legislation for that purpose.

But, Mr. President, as I was saying yesterday, the imperfection of the twenty-fourth section of the bill is not a sufficient answer to the objection to it. The fundamental objection which I make to it is this specifically: That it is creating two kinds of citizen soldiery, and that while it was the intention of the framers of the Constitution that the citizen soldiery should be the militia of the country, this divides the citizen soldiery into two distinct classes, one body of which shall be the militia of the country and the other body of which shall be in fact a reserve force of the Regular Army. This last division, citizen soldiery, would be organized and officered by the United States, would not be under State law, and would not be subject to the call of the governor of the State for any purpose.

Mr. President, that is a most serious proposition. The fundamental idea of the framers of the Constitution was that the citizen soldiery should be the militia and that it should not be separated from the control of the States; the fundamental idea was that the great reserve military force of the country should be the militia and that their organization should be under the authority of the States. The fundamental requirement in that regard was that they should be officered by the States, and the reservation to the National Government in regard to the militia is as to their organization, arming, and discipline and management. All that will be necessary to make them perfect as a machine for war is that the discipline, the training, by the States shall be according to the discipline prescribed by Congress.

In that way there was answered the great jealousy which existed at that time in the minds of all American people against great standing armies, and at the same time there was answered the necessity for a sufficient force for the protection of the country in time of need. In that way there was answered the additional requirement that there should be at the command of the States a sufficiency of force for their local requirements in time of need; and thus it was that there would be no soldiers in any State other than those who belonged to the regular establishment, which would not be at command of the governor of the State for the preservation of order and for the maintenance of authority.

This bill proposes to erect in every State an organization, if you please—if not a perfect one an imperfect one—of men who shall be citizen soldiery and at the same time shall not be subject to the control of the State. In no manner are they to be subject to the law of the State or to the authority of the governor or made responsive to his call.

Mr. President, I said yesterday, and I repeat it to-day, that this is no legitimate part of this bill. If this force is a part of the militia, section 24 is unconstitutional and all Senators will necessarily admit it, because under it not only is the force officered by the United States, but it prescribes duties which can not be laid upon the militia. It says that they shall be subject to be sent out of the country. If it is not a part of the militia, if it is designed simply to be, which it undoubtedly is, an appendix to the Regular Army, a reserve force to the Regular Army, then it has no place in this bill.

Why is it, Mr. President, that legislation with reference to the Army can not be had without bringing it under a militia bill? We are all of us in favor of an efficient militia bill; we are all of us in favor of an efficient militia organization; we all of us want to cooperate in the laudable effort of the War Department to perfect the most efficient militia bill which can be devised; and I think that great credit is due to the War Department for this

bill so far as it relates properly to the militia, and it would be with the greatest pleasure that I should give my vote for it, and I desire to do so. Why is it that a provision which relates to the Regular Army—because it can not be said to be anything else—can not be allowed to stand upon its own merits and pass by its own strength, and that those of us who favor the enactment of an efficient militia law may not be compelled to pass upon a question which does not in any manner relate to the militia, and vote possibly "no" upon a bill which we would otherwise desire to see enacted into law?

Mr. President, this is a most serious departure from anything which has heretofore been attempted with reference to the military establishment of the country. I discussed on yesterday what was the purpose of the framers of the Constitution in the organization of a militia. I discussed what was in their contemplation under the term "militia." I contended that the purpose was to include all citizen soldiery under the term "militia." We must not unnecessarily confuse terms. In the old days we used to recognize the distinction between the militia and the volunteer organizations which had been called in some States National Guards and in other States volunteers, but, in fact, in the broader sense, in the sense in which we are dealing with it here, when we use the term "militia" we mean all the citizen soldiery, all the soldiery outside of the regular establishment of the United States.

The term "militia," in its broader sense, is made to include the volunteer organizations which in some States are known as the National Guard; is made to include those known in other States as volunteer companies, and is made to include also any unorganized militia there may be. I repeat, it is a term used as a broad generic term to include all citizen soldiery, all soldiery other than the Regular Army of the United States and such other organizations as are regularly enlisted in the Army of the United States for active duty.

Mr. SPOONER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. Certainly.

Mr. SPOONER. I suppose the Senator would be willing to admit that in the generic sense it includes all citizens of the States able to bear arms, whether enrolled and organized or not?

Mr. BACON. It would include all between the ages the law designated as subject to military service. Of course, if you go to the strict letter of the term, you know what "militia" means. It means, in a still broader sense, soldiery; it comes from the Latin word "miles," which means a soldier; but we all know what, in the organization of this Government, was intended by the term "militia." It was intended to include all branches and all kinds of citizen soldiery as contradistinguished from the Regular Army, and therefore we find the term in the Constitution of the United States.

Mr. SPOONER. I think the Senator is in error about that.

Mr. BACON. Well, I should be very glad to be corrected by the honorable Senator.

Mr. SPOONER. I do not mean that I can correct the Senator, but I only suggested that I thought—

Mr. BACON. The Senator will not understand me as criticising him in any way.

Mr. SPOONER. Oh, no. I think the word "militia" is a generic word, and I think it includes all citizens of the States capable of bearing arms. The supreme court of Alabama at one time defined it, and there have been various decisions to the same effect. That court said:

Its true and exact import is that portion of the people who are capable of bearing arms—the arms-bearing population.

That is subdivided into the organized militia. It may be company organization throughout the State, as there was once in my State and in the Senator's State, I suppose—

Mr. BACON. Yes.

Mr. SPOONER. Afterwards they organized into battalions, regiments, and brigades, out of which came the National Guard; but in the generic sense in which the term is used, I think this definition by the supreme court of Alabama the correct one.

Mr. BACON. I will not take issue upon that.

Mr. SPOONER. Does the Senator mean to be understood as saying that under the Constitution, in the exercise of the power to raise armies, the force must be either a standing army, a regular establishment, officered, of course, by the President, or the militia officered by the States? Does the Senator mean that?

Mr. BACON. Will the Senator please repeat the question?

Mr. SPOONER. Does the Senator contemplate that when the Constitution confers upon the Congress the power to raise armies limited in this way that it must be the regular establishment of men who serve in time of peace as well as in time of war under orders of the President and officered by the President, or the militia officered by the States? The Senator excludes the power of Congress to bring into the service a force which is neither in

fact a part of the standing army nor a part of the organized militia of the States, which are officered by the States, does he not?

Mr. BACON. Mr. President, the Senator asks a question and proceeds with such elaboration that it is difficult to answer "yes" or "no."

Mr. SPOONER. I did not ask for a categorical answer.

Mr. BACON. I endeavored on yesterday to explain what my view was about the matter, and I shall endeavor again, in response to the inquiry of the Senator, to make it a little clearer, if I am able to do so.

I think that the contemplation of the Constitution was that the militia should include those who should be recognized as the citizen soldiery of the country. That is what is meant by "militia." As to how many of the population that will include, of course it is not necessary for me to go into the distinction which the Senator has called to our attention. I care not how true it may be; I care not whether the term "militia" is to include all, as stated by the supreme court of Alabama, capable of bearing arms, or whether it includes only such as Congress in an enactment may say it shall include, for instance, in regard to the limitation of age. But there are recognized in the Constitution of the United States two classes of soldiery—those who are in the employ of the National Government and those who are the citizen soldiery capable of being called into service, but who are not in the service until so called. That is the distinction.

The Senator's question, I presume, is meant to direct my attention to the class of organizations which were called out in the Spanish war under the acts of 1898 and 1899. They were not what we call the Regular Army, but nevertheless they were enlisted in the service of the United States Government, receiving its pay, and regularly subject to its orders. They were not men in civil life, still engaged in civil vocations. They had left civil life; they had laid down their civil vocations; they had submitted themselves to the authority and direct control of the United States Government and became part of its active Army.

Mr. SPOONER. But, Mr. President, if the Senator will permit me, when the organized militia are called into the service of the United States they are subject to the orders and discipline of the United States as made by the United States.

Mr. BACON. Undoubtedly, and should be so enrolled. I think that one of the merits of this bill, so far as it relates to the militia, is that it enables the United States Government to receive efficient service from that class of men.

But the point to which I am very glad to have the attention of the learned Senator directed is this: That under section 24 of this bill there are to be men who are not in the service as soldiers, but men who are in civil life, who are still pursuing their civil vocations, who are yet to be enrolled as soldiers of the United States in each State as part of the citizen soldiery, and yet in no way as contemplated by the Constitution, officered by the States, or subject to the laws of the States. They are to be citizen soldiery to be officered by those appointed by the Government of the United States; citizen soldiery not in any manner subject to the law of the State; citizen soldiery in no manner subject to the call of the governor of the State. That is the class of men; and I say it is a class of soldiery which has never heretofore been known to the law of the United States.

Mr. President, I take issue with the proposition which is implied in this bill that the Congress of the United States by the use of words can defeat the evident purpose of the Constitution of the United States, which made the citizen soldiery of the country the militia of the country; which required that they should be officered by the States, and should be subject to the control of the governors of the States until they were called into the service of the United States. If that proposition is correct, to what does it lead? If it be true that by simply calling it something else the citizen soldiery of the country can be taken from without the control of the State, if by simply giving it another name we may have the larger part, or, in fact, nine-tenths of the citizen soldiery taken out of the State militia, the entire purpose of the Constitution can be defeated in that regard, because if by act of Congress a small part of the citizen soldiery can be taken out of the class of the militia, by the same power the larger part of the citizen soldiery can be thus taken out and set apart.

Mr. President, as a corollary of that contention, I deny the proposition that Congress has the power to divide the militia into two classes, and to say that one part of the militia is under the Constitution and the other part of the militia is not that to which the Constitution has reference. That is what this bill does, and I will call attention to the language of it to prove it.

Mr. President, the Senator from Alabama [Mr. PETTUS] made objection to the bill upon the ground that it made an unconstitutional use of the militia; that it required that a part of the militia be organized in such a way that it could be ordered out of the country, whereas the Constitution provides that the militia shall



not be ordered out of the country. Reply was at once made that that particular part of the force upon which that criticism was made was not a part of the militia, and that therefore the constitutional objection did not obtain; and yet I respectfully submit, Mr. President, that this bill does contemplate that it is a part of the militia, and that it intends that there shall be a part of the militia which shall be controlled in the way the Constitution prescribes, and that there shall be another part of the militia which shall be free from the limitations prescribed by the Constitution.

It is not simply that this bill in effect endeavors to make a part of the militia a part of the Regular Army of the United States, the reserve of the Regular Army of the United States, but the bill itself in terms endeavors to divide the militia into two classes of militia—the militia by name—one of which shall be subject to the limitations prescribed by the Constitution and another, which shall be free from it. Have we a right to do that? If I am correct in that statement, if the Constitution says the militia shall be organized so and so, using the generic term "militia," have we the right to say that we will divide the people who are properly included under that generic term, and that one part of them shall be subject as prescribed and required by the Constitution and the other part shall not? Have we any such right? Is there any such power? If we attempt it, is it not an evasion of the Constitution, is it not a violation of it?

Now, am I correct in saying that this bill does that? Let us see. The very first section provides for these two classes of militia in name and in terms and calls them each militia. I will read it:

That the militia shall consist of every able-bodied male citizen of the respective States, Territories, and the District of Columbia, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is more than 18 and less than 45 years of age, and shall be divided into three classes—

Three classes, now, of the militia. The militia contemplated by the Constitution shall be divided into three classes. That will be all right if each of the three classes is organized in compliance with the plain requirements of the Constitution. I resume the reading:

The organized militia, to be known as the National Guard of the State, Territory, or District of Columbia, or by such other designations as may be given them by the laws of the respective States or Territories, the national volunteer reserve as provided by this act, and the remainder to be known as the reserve militia.

Mr. President, I hope I may have the attention of the Senator from Ohio [Mr. FORAKER] on that point, because the Senator himself drew the distinction that this was not a part of the militia, and I have just read the first section of the bill, which says that all of the male inhabitants of the United States between 18 and 45 years of age shall constitute the militia, and that that militia shall be divided into three classes, and thus specifies them, all in one section and in one sentence. These are the three classes: First—

The organized militia, to be known as the National Guard of the State, Territory, or District of Columbia, or by such other designations as may be given them by the laws of the respective States or Territories—

I interpolate the word "second"—

the national volunteer reserve as provided by this act—

And now I interpolate the word "third"—

and the remainder to be known as the reserve militia.

The second class, as here provided for as part of the militia, and which I have just read, is the class which is created in section 24. It is here in the bill specifically classified as a part of the militia, and yet section 24, relating to the same class, is defended against the charge of unconstitutionality by the contention that it does not relate to a part of the militia.

Now, the point—

Mr. FORAKER rose.

Mr. BACON. I am not going to ask the Senator to answer now, unless he desires to do so, in which case I shall yield to him, but the question I want to ask the Senator is this—

Mr. FORAKER. I do not rise to answer, but only to remind the Senator from Georgia that I said this was not a part of the militia, and that it was not contemplated by the provisions of the bill that it should be, except only as everybody between the ages of 18 and 45 in this country who owes allegiance to the Government is a part of the militia. This is not designed to be a militia organization, but a volunteer reserve force of the Army of the United States, and it is perfectly germane and perfectly proper to be a part of this bill, because this bill relates to the national defense.

Mr. BACON. Nevertheless it is an act which professes to provide for the organization of the militia.

Mr. FORAKER. "And for other purposes."

Mr. BACON. Yes, "and for other purposes." I grant you that. But I am showing what it specifically provides for this particular purpose, if the Senator will pardon me a moment.

Mr. FORAKER. The word "militia" is used, as the Senator

from Wisconsin [Mr. SPOONER] suggested, in its generic sense, which covers everybody who is liable to militia duty.

Mr. BACON. Everybody knows—

Mr. FORAKER. Where would he get a volunteer reserve force, if he set about organizing one, except only from the militia?

Mr. SPOONER. Or the Regular Army either.

Mr. FORAKER. Or the Regular Army either.

Mr. BACON. I have no objection to their organizing a reserve force of militia if they comply with the requirements of the Constitution in making it a part of the militia.

Mr. FORAKER. Now—

Mr. BACON. If the Senator will pardon me a moment, he asked me a question. Let me reply to it.

Mr. FORAKER. I want to ask another.

Mr. BACON. Yes; but let me get through with one.

There is no objection to there being a reserve of militia. If they will recast the bill so as to make this a part of the militia, subject to the provisions of the Constitution relative to the militia, I have no objection to it, but my criticism upon it is that, while they call it militia, they take it outside of the militia in the fact that they do that which the Constitution says shall not be done in reference to the militia; and, therefore, while the honorable Senators say the militia includes everybody, we know that in the Constitution it does not mean the Regular Army of the United States. If it did, it would not provide that it should be officered by the States.

The Constitution had a specific body of men in view when it used the term "militia" and when it said it should be officered by the States. While it is true that every male citizen between the ages of 18 and 45 is a part of the militia, it did not mean that part of it which we call the Regular Army, because it would be an absurdity to say the officers of the Regular Army should be provided by the States. It meant by the term "militia" the citizen soldiery who were to be called on by the Government in time of emergency, who were still in civil life, who were not enlisted by the United States Government, and who were not organized under its military control and receiving its pay. It meant that great body of citizens who could, when required, be utilized as soldiers and upon whom the great defense of the country must depend—the citizen soldiery.

It said as to them, and put it in the fundamental law of the land, that they should be under the control of the States and that the States should officer them, the President of the United States still having the right to call them directly, without proceeding through the governors. It is not necessary that he should call on the governors. He can call directly for them; they are a part of the citizen soldiery of the country; but while he may call for them directly, the Constitution prescribes that they shall be State organizations, officered by the States, and trained by the States under the discipline prescribed by the United States.

Mr. FORAKER. The further question I wanted to ask the Senator was this: Are not volunteers, when mustered into the service of the United States, a citizen soldiery?

Mr. BACON. They are not then citizen soldiery—

Mr. FORAKER. Were not the volunteers whom we enlisted and sent to the Philippines a citizen soldiery?

Mr. BACON. The Senator asked me a question, and I hope he will let me answer it.

Mr. FORAKER. I wanted to make it more specific.

Mr. BACON. Very well; go ahead.

Mr. FORAKER. I have made it sufficiently specific. Were not the soldiers whom we organized as volunteers and sent to the Philippines a citizen soldiery?

Mr. BACON. That is the Senator's question?

Mr. FORAKER. Yes, sir.

Mr. BACON. He simply repeats it without making it more plain.

Mr. FORAKER. I repeat it now, but when I first propounded it to the Senator I did not use the word "Philippines."

Mr. BACON. I beg the Senator's pardon.

Mr. FORAKER. To make the illustration more direct I repeated it and inserted the word "Philippines."

Mr. BACON. In the sense in which we use the term "citizen soldiery" they were not. The term "citizen soldiery" means those who are still in civil life and yet are subject to be called on for military duty. "Citizen soldiery" we generally understand to be citizens who are organized into military bodies, though in its broadest sense it would apply to all of those in this country who constitute the militia proper, which are all those within the militia ages.

But in the sense of this discussion, whenever an organization is called into active service and comes under the control of the Government of the United States as a part of the Army of the United States they are no longer citizen soldiery. That is not what we mean by "citizen soldiery," and that is not what we have in contemplation when we are discussing this bill; but we have in contemplation, in discussing this bill, the men who are still in the



civil walks of life, but who are so organized, if you please, or so embraced in a statute that when war comes they can be made to lay down the vocations of civil life and take up the weapons of war. That is what we mean by "citizen soldiery."

A volunteer company, whether known as a volunteer or as a national guard, so long as it is composed of men who are not in active service, are, in the sense in which we are discussing this question, citizen soldiery. But whenever they are called into active service, whenever they are enlisted and put into organizations under the command and military authority of the Government of the United States, while in the sense which the Senator from Ohio had in view when he propounded the question they might still be called citizen soldiery, they are not the citizen soldiery whom we have in contemplation here, because that is not the kind of people we are talking about. What we are discussing are citizen soldiers who in time of peace will not be in active service, who will not be separate and apart from their fellow-citizens, who will mingle with them every day in their daily civil vocations, but who, when the need comes, can be put into the Army. Those are citizen soldiery; and it was that class of citizen soldiery which is included under the term "militia" which was in the minds of the framers of the Constitution.

Mr. President, the doctrine that there are any rights left to the States is by many no longer recognized, and the suggestion that there is still any right of a State which, under the Constitution, should not be violated by the General Government is, by some at least, only met with a smile. But, sir, there are still rights of the States under the Constitution, and Senators, the peculiar representatives of States, should guard those rights most jealously. The particular right for which we are contending in opposing section 24 of this bill is by the Constitution expressly reserved to the States. A part of section 8, Article I, which I have already read in full, making it the duty of Congress to organize and arm the militia, concludes with the words:

Reserving to the States, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.

This bill in so far as it provides for the organization and arming and discipline of the militia is substantially all right and meets my approval. But section 24 violates this provision of the Constitution, as well as others. It takes out a part of the citizen soldiery of a State, provides for their being officered by the United States, and takes them away from the authority and training of the State in which they live, and puts them, so far as military duty is concerned, under the exclusive authority of the President and of Congress. The President of the United States can call on these citizens for military duty, but the governor of the State can not, although riot and insurrection may be at their doors. These men, thus enrolled and set apart, are to be still citizens and civilians in a State, but the governor can not call on them for any military duty whatever, nor can the State, by any law, impose any military duty upon them. They are to be subject to the orders of the President in military matters, but not to the orders of the governor.

The governor of a State is the military head of the State in the same way that the President is the military head of the United States. The duty to preserve order, to put down insurrection, to maintain law, devolves upon the governor in a State in the same manner and even in greater degree than it devolves upon the President in the United States. Every citizen of the State capable of bearing arms and not in the active military service of the United States is, by every principle of our Government, subject to the order of the governor when required to enforce law and maintain authority. It is a violation of this fundamental principle to enact a law by the Federal Government which shall set apart a certain class of the citizens of the State and say that they shall be subject only to the call of the President and to the military duty prescribed by Congress; that they shall not be subject to the call of the governor or to any military duty which may be laid upon them by the legislature of their State.

Mr. CULLOM. May I interrupt the Senator from Georgia for an interrogatory?

Mr. BACON. Certainly.

Mr. CULLOM. I desire to have a brief executive session, and if the Senator from Georgia has not very nearly concluded, I would be glad if he would give way for that purpose. I understand that later in the day a ceremonial is to take place.

Mr. BACON. I do not think I could get through anyhow before the time when those exercises will begin.

Mr. CULLOM. That is the reason why I ventured to interrupt the Senator from Georgia.

Mr. BACON. So, if it is entirely agreeable to the Senate and the Senator, I will suspend for the day.

I did not expect to be so long upon the floor, but my distinguished friend the Senator from Vermont in charge of the bill will recognize the fact that inquiries which have been made of me

and which I have been most happy to receive and attempt to answer, at least, have necessarily made my remarks much longer than they otherwise would have been. I think it is an extremely important measure. I do not think there has been a more important one before this body since I have been in the Senate, in so far as it opens a new policy for the Government—a policy which in its extension and development may utterly revolutionize the militia system as contemplated by the Constitution.

#### EXECUTIVE SESSION.

Mr. CULLOM. Then, by the leave of the Senator from Georgia, I move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore. Does the Senator from Georgia yield for that purpose?

Mr. BACON. I do.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Illinois, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twenty minutes spent in executive session the doors were reopened.

#### PUBLIC BUILDING BILLS.

Mr. COCKRELL. I move that the Committee on Public Buildings and Grounds be discharged from the further consideration of the bills (S. 5655) providing for the erection of a public building at Moberly, Mo.; (S. 5497) to provide for the erection of a public building at the city of Columbia, Mo., and (S. 5288) to limit the cost of the public building at Joplin, Mo., and that they be postponed indefinitely, provision having been made for the erection of public buildings at each of these places.

The motion was agreed to.

#### SAFETY APPLIANCES ON RAILROADS.

Mr. PATTERSON. I ask unanimous consent for the adoption of the resolution which I send to the desk.

The resolution was read, as follows:

*Resolved*, That the Interstate Commerce Commission be, and it is hereby directed to send to the Senate copies of all information and reports furnished by its inspectors showing the condition and defects of train or power brakes, and the operation of trains thereby, as required by the act to promote the safety of employees and travelers upon railroads, approved March 2, 1893, from May 10 to December 31, 1902, on the following-named railroads and their leased lines: Baltimore and Ohio, Chesapeake and Ohio, Cincinnati, New Orleans and Texas Pacific, Erie, Illinois Central, Lehigh Valley, Louisville and Nashville, Lake Shore and Michigan Southern, New York, New Haven and Hartford, Norfolk and Western, Pennsylvania, Queen and Crescent, Southern, and Southern Pacific.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. KEAN. What is the resolution? I did not catch the purport of it.

The PRESIDENT pro tempore. It is a resolution offered by the Senator from Colorado [Mr. PATTERSON], for which he asks present consideration.

Mr. PATTERSON. If the Senator from New Jersey will permit me to make a very short statement, I think there can be no objection to it.

Mr. KEAN. I will withhold my objection.

Mr. PATTERSON. On the 10th of May last a like resolution was adopted. The Interstate Commerce Commission have not complied with the resolution, but they are almost ready to send in their report. This resolution is supplemental, simply bringing up that information from the 10th of May last to the present time. It will require four or five additional days, if this resolution is adopted, as I am told, to make the information complete.

Mr. KEAN. Why not get the information previously asked for first?

Mr. PATTERSON. This is simply supplemental to it. It is the same class of information, and brings it up from the 10th of May to the present time.

Mr. KEAN. I think the resolution had better go over.

Mr. PATTERSON. It would be all one piece of work.

The PRESIDENT pro tempore. Objection is made to the present consideration of the resolution, and it goes over.

#### EFFICIENCY OF THE MILITIA.

Mr. PROCTOR. Mr. President, it is utterly impossible to consider the militia bill further this week, and I give notice that on the first day after the recess I shall call it up in the morning hour. It will retain its place on the Calendar, of course.

#### MELLERT FOUNDRY AND MACHINE COMPANY.

Mr. PENROSE. I ask unanimous consent to call up the bill (H. R. 2492) to reimburse the Mellert Foundry and Machine Company for money retained by the United States for failure to complete a contract within a specified time.

The PRESIDENT pro tempore. The bill will be read to the Senate in full for its information.



The Secretary read the bill, as follows:

*Be it enacted, etc.*, That the sum of \$2,427.84 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of reimbursing the Moller Foundry and Machine Company, Limited, of Reading, Pa., for money retained as a penalty by the United States by reason of a failure to complete a contract within a specified time.

Mr. SPOONER. What department of the Government, if I may inquire, was this contract made with?

Mr. PENROSE. The report of the committee, which I will have read if the Senator desires, will explain it.

Mr. SPOONER. I only want the information if the Senator has it.

Mr. PENROSE. I do not recall. I introduced a bill similar to this one when I first entered the Senate. I have got it through at every session; and now, at the close of my term, I should like to have it passed. This bill was passed by the House of Representatives at the first session of the present Congress. It has been reported favorably again for the third time by the Senate Committee on Claims, and is now pending on the Calendar.

Mr. SPOONER. What I really wanted to ascertain, and my question was only a preliminary one, was whether the department which made the contract recommends the passage of the bill.

Mr. PENROSE. I assume that it does. I have not read the report of the committee for the present session. I would ask to have the report read, but I hesitate to take up the time of the Senate upon a comparatively unimportant matter.

Mr. SPOONER. The sum of money involved is not large, but the precedent is large.

Mr. PENROSE. Then I ask to have the report read.

Mr. SPOONER. I do not care to have the report read in full or to take any time. I should like to know what the bill involves.

Mr. KEAN. I can explain to the Senator from Wisconsin what the claim is. There was a penalty under the contract, which these people paid. The Government suffered no loss, and the object of the bill is merely to remit the penalty.

Mr. FORAKER. For delay?

Mr. KEAN. For delay.

Mr. SPOONER. It is recommended by Brigadier-General Wilson, Chief of Engineers, I observe.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House insists upon its amendments to the bill (S. 4850) to increase the pensions of those who have lost limbs in the military or naval service of the United States or are totally disabled in the same, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SULLOWAY, Mr. CALDERHEAD, and Mr. MIERS of Indiana managers at the conference on the part of the House.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution, and they were thereupon signed by the President pro tempore:

A bill (H. R. 15140) providing that the circuit court of appeals of the fifth judicial circuit of the United States shall hold at least one term of said court annually in the city of Fort Worth, in the State of Texas, on the first Monday in November in each year; and

A joint resolution (H. J. Res. 227) to pay the officers and employees of the Senate and House of Representatives their respective salaries for the month of December, 1902, on the 18th day of said month.

#### ALLEN M. RIPLEY.

Mr. GALLINGER. Mr. President, there are two pension bills on the Calendar which I would like to have acted on. The first one is the bill (S. 6330) granting an increase of pension to Allen M. Ripley.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to place on the pension roll the name of Allen M. Ripley, late of Company K, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and to pay him a pension of \$30 per month in lieu of that he is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### NANNIE M. KIMBERLY.

Mr. GALLINGER. I ask consent for the present consideration of the bill (S. 3708) granting a pension to Nannie M. Kimberly.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Pensions with amendments, in line 7, before the words "United States," to strike out "in the;" and in line 8, after the word "month," to insert "in lieu of that she is now receiving;" so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Nannie M. Kimberly, widow of Lewis A. Kimberly, late rear-admiral, United States Navy, and pay her a pension at the rate of \$50 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting an increase of pension to Nannie M. Kimberly."

#### COMMITTEE SERVICE.

Mr. BURROWS. Mr. President, my colleague, Senator ALGER, is without assignment to any committee, and I understand from the chairman of the committee on committees that there is some difficulty about making an assignment at this time. In view of that, and recognizing his eminent fitness as ex-Secretary of War to serve upon the Committee on Military Affairs, of which I am a member, I ask the Senate that I may be relieved from further service upon that committee that my colleague may be appointed to the place.

The PRESIDENT pro tempore. The Senator from Michigan asks leave to be relieved from further duty upon the Committee on Military Affairs. Is there objection to his request? The Chair hears none.

Mr. PLATT of Connecticut. I move that the junior Senator from Michigan [Mr. ALGER] be appointed to fill the vacancy made by the action of the senior Senator from Michigan [Mr. BURROWS].

The PRESIDENT pro tempore. The Senator from Connecticut asks that the junior Senator from Michigan be appointed to the Committee on Military Affairs in the place made vacant by the resignation of the senior Senator. Is there objection? The Chair hears none. It is so ordered.

#### MEMORIAL ADDRESSES ON THE LATE SENATOR WILLIAM J. SEWELL.

Mr. KEAN. Mr. President, in pursuance of the notice heretofore given, I submit the resolutions which I send to the desk.

The PRESIDENT pro tempore. The Senator from New Jersey submits resolutions, which will be read.

The Secretary read the resolutions, as follows:

*Resolved*, That it is with deep regret and profound sorrow that the Senate hears the announcement of the death of Hon. WILLIAM J. SEWELL, late a Senator from the State of New Jersey.

*Resolved*, That the Senate extends to his family and to the people of the State of New Jersey sincere condolence in their bereavement.

*Resolved*, That, as a mark of respect to the memory of the deceased, the business of the Senate be now suspended to enable his associates to pay fitting tribute to his high character and distinguished services.

*Resolved*, That the Secretary transmit to the family of the deceased and to the Governor of the State of New Jersey a copy of these resolutions, with the action of the Senate thereon.

*Resolved*, That the Secretary communicate these resolutions to the House of Representatives.

*Resolved*, That, as an additional mark of respect, at the conclusion of these exercises the Senate do adjourn.

The PRESIDENT pro tempore. Will the Senate agree to the resolutions?

The resolutions were unanimously agreed to.

Mr. KEAN. Mr. President, almost a twelvemonth has rolled away since the mortal remains of General SEWELL were conveyed to their last resting place in the beautiful cemetery of Harleigh, near Camden, N. J., and yet we feel the loss that has befallen his country and his State as if it were but yesterday.

We miss him here—that tall, soldier-like form, which for many years held conspicuous place among us, the friend and colleague to whose memory we pay our tribute to-day.

In his rise from narrow and humble beginning to eminence and leadership General SEWELL exemplified those qualities of mind and heart which we have come to recognize as typical American. Gifted with resolution, patience, firmness, self-reliance, he was destined to master in time whatever task he undertook—to prove his mettle in any field to which duty or opportunity might call him.

Thoroughness, constancy, and loyalty were his watchwords. His success he owed to no caprice of fortune. He won against odds; it was the fruit of struggle and training—of capacity unfolding itself as opportunity came—of that broad and hard experience in which our leaders in war, in politics, and in industry have almost all been bred.

To this school—the school of Clay, of Jackson, of Lincoln, of

Grant, of Garfield, of McKinley—WILLIAM J. SEWELL clearly belonged. His leadership was established under the same conditions and through the same qualities.

He was a younger son of a family of yeoman proprietors possessing a freehold in the parish of Sebergham, Cumberland, England. His father obtained a commission in the civil service and went to Castlebar, county of Mayo, Ireland, as "collector of internal revenues" for that county, where he married a daughter of Captain Joyce, of the Fifth Regiment of Irish Dragoon Guards. The Joyce family was of protestant Scotch-Irish descent. Although General SEWELL had but little Irish blood in his veins he cherished the greatest affection for the land of his birth and early associations.

Born in 1835, he was left an orphan at an early age; he followed a brother to the city of New York. As a youth he was adventurous and romantic, and at the age of 18 gave up a good business opening in order to enlist before the mast of an American merchantman, the *Flyaway*, sailing for Chinese ports. After an adventurous voyage, on which he distinguished himself for courage, he returned to the United States as first mate of that vessel. He engaged in several business undertakings, and when the war broke out he had so many friends he was able to raise a company of his own, with which he enlisted in the Fifth New Jersey Volunteers and became its captain.

He participated in all of the engagements in which the Fifth New Jersey took part, and in July, 1862, was promoted to the lieutenant-colonelcy. He became colonel in September of the same year.

At Chancellorsville he commanded the Second New Jersey Brigade and led a timely and successful charge against the enemy—a piece of soldierly skill and daring which won immediate recognition, and later was awarded a medal of honor by Congress.

Though wounded, he resumed his field duties for the Gettysburg campaign, and on the second day's fight at Gettysburg was in the front line of the Federal left wing so fiercely assaulted by Longstreet. There he again showed the greatest gallantry and was again—and this time more seriously—wounded. From July 2 to August 31, 1864, he was retired for disability. But entering the service afresh as colonel of the Thirty-eighth New Jersey Volunteers, he participated in the wasting Virginia campaign which preceded Lee's surrender.

For meritorious services he received brevets both as brigadier and as major general.

From 1872 to the time of his death he devoted much labor to organizing and strengthening the National Guard of New Jersey, bringing it to a new and highly creditable level of efficiency.

Soon after the outbreak of the war with Spain President McKinley commissioned him a major-general of volunteers. It was his earnest wish to serve his country again in arms, but a higher duty interposed, and at the earnest request of his Republican colleagues in this body he decided to decline the appointment pressed upon him. Many of you will recall the appeal that was made to him not to abandon his seat in the Senate.

"We do this," the letter read, "knowing that the appointment is well merited by your distinguished military career and your genius for organization and command, but we feel in this exigency neither the party nor the country can forego in the Senate the influence of your experience, ability, patriotism, and integrity in legislative service."

The fidelity and capacity he had shown as a soldier were to assure his success in civil life. After being mustered out of the service he wasted no time in seeking employment. The first place that offered was accepted, and, though not a remunerative one, proved to be most fortunate. It was with the Camden and Amboy Railroad, at Trenton. His great executive ability in even minor positions was quickly recognized, and he was sent to Camden as yardmaster. Diligence and competence soon earned him promotion; he rose through the various grades to be general superintendent, vice-president, and finally president of what is now known as the West Jersey and Seashore Railroad Company.

General SEWELL's active political career began in 1872 with his election to the State senate from Camden County. He served three three-year terms in the senate and was its president while the Republican party had control. He fathered the resolution creating a commission to suggest amendments to the State constitution and led the fight for their adoption. He also took a conspicuous part in the passage of New Jersey's general railroad law and of the railroad municipal tax and municipal corporation acts.

In 1881 he first entered this body, having been chosen to succeed the Hon. Theodore F. Randolph. Six years later he failed of reelection, the legislature having a Democratic majority on joint ballot. But in 1895 he regained his seat, succeeding the Hon. John R. McPherson. In 1901 he was elected for a third term, only a fraction of which he served. His last appearance in this body was at the extraordinary session called by the President which terminated March 9, 1901.

In his own State he long exercised an exceptional influence in

party councils. He headed our State delegations to the Republican conventions of 1876, 1880, 1884, 1888, 1892, 1896, and 1900, and was New Jersey's recognized spokesman in all those gatherings. His power in the State organization was sometimes disputed, but never overthrown. On the contrary, it grew with time, for it was based on unquestioned capacity, courage, loyalty, and integrity.

In all the heated and prejudiced struggles of faction no one could justly reproach WILLIAM J. SEWELL with a broken promise or a dishonorable betrayal.

Of his service in this body I need say little. Here, where his character was intimately known, his sterling virtues were amply appreciated. He made few speeches. The part he played was not spectacular.

Yet the work he did was eminently useful and lasting. His judgment on all important legislation was sought and valued. He was a tower of strength in counsel. His voice was potent in all decisions on legislative or party policy.

In manner General SEWELL has been charged with a certain brusqueness and coldness. There was a hint of military precision in his attitude. He sometimes carried directness to the point of bluntness, but this manner reflected only his own deeper tendencies of thought and character. He believed in openness, in candor, in plain speaking and straightforward action. He scorned concealment and indirection; and he detested shams and insincerity.

To all who knew him intimately this surface roughness covered a generous and tender heart. Always open, always high minded, he won the ungrudging respect of his opponents, while attaching his friends to him in ever-tightening bonds of trust and love.

His life was gentle, and the elements  
So mix'd in him, that Nature might stand up  
And say to all the world, "This was a man!"

Mr. COCKRELL. Mr. President, it is eminently fitting that to-day the Senate of the United States of America should lay aside its legislative labors in order to pay its last tribute of respect, friendship, and honor to the memory of Hon. WILLIAM JOYCE SEWELL, late a Senator in this Chamber from the State of New Jersey.

General SEWELL was born December 16, 1835, in Ireland, came to this country at the age of 18 years, and died at his home in Camden, N. J., December 27, 1901, respected, honored, and loved by the good people of his adopted State and by all who knew him personally or knew of his noble, manly character and worth. "A good name is rather to be chosen than great riches."

His life record is a brilliant and illustrious one, worthy of emulation, and inspiring and encouraging to those who closely study it. At the age of 18 years, in this, his adopted country, he entered the arena for his life work with a sound body and a clear, vigorous mind; with honesty of purpose, fidelity in the discharge of every duty and trust, great or small, and firm determination to achieve success honorably and legitimately.

He engaged in mercantile pursuits; and early after the beginning of the civil war in 1861, being loyally and patriotically devoted to his adopted country and the maintenance of the integrity of the Union of the States, he organized a company of volunteers and was commissioned captain in the Fifth New Jersey Regiment on the 28th day of August, 1861, and served during the entire war with distinguished gallantry and military ability.

On July 7, 1862, he was promoted to lieutenant-colonel, and in October of the same year to colonel, and participated in the many battles in which his regiment was engaged, and was severely wounded at the battles of Chancellorsville and Gettysburg.

At the battle of Chancellorsville he was commanding the Second New Jersey Brigade and, at a critical position, led forward his brigade in a daring charge and achieved one of the brilliant successes of the war, capturing eight stands of colors. For his gallant and meritorious services in this battle he was commissioned by brevet a brigadier-general of United States Volunteers.

On July 2, 1864, he resigned as colonel on account of the disabilities incurred in the service in the line of duty. As soon as he had partially recovered from the effects of his wounds, he again offered his services to his State, and was commissioned by the governor to raise and organize the Thirty-eighth Regiment New Jersey Volunteer Infantry, and was mustered in as colonel October 1, 1864, and with his regiment took an active part in the operations about Petersburg, Va., which resulted in the capture of Richmond, Va., on April 2, 1865, and the surrender of General Lee at Appomattox on April 9, 1865. With his command he returned to his home and was honorably mustered out on June 30, 1865.

For his gallant and meritorious services during the war he was brevetted major-general March 13, 1865. In estimating correctly the gallantry, military abilities, and services shown and rendered by General SEWELL from early in 1861 to the middle of the year 1865, we must not forget the historical fact that that war was a



war lasting for four long weary years, wherein the citizen soldiers of the Northern and Southern States of our Union, the noblest and bravest soldiers who ever faced each other in martial array and clashed in mortal combat in all the history of the world's wars, confronted each other, fearlessly contesting every foot of ground and covering the field of battle with dead and wounded on each side. When such soldiers met each other in battle there was truly "the tug of war," testing to the fullest extent their endurance, courage, manhood, and devotion.

It was in such a war that General SEWELL achieved eminent distinction and rendered meritorious services, justly entitling him to the brevets of brigadier-general and major-general, United States Volunteers, conferred upon him by President Lincoln. When the war closed, in the maintenance of the Union of the States, General SEWELL returned to the peaceful avocations of civil life with the same courage, patriotism, and devotion he had so conspicuously shown during the war.

He was that type of American soldier whom his comrades in arms respected, honored, and willingly followed.

In civil life he was that type of American citizen whom his fellow-citizens respected and loved to honor and to follow.

As an officer he was brave, strict in discipline, mindful of the well-being of his men, and inspired them with confidence and courage, and enjoyed their respect and love.

As a citizen, by his forceful character, great executive ability, untiring energy, incorruptible integrity, and strict attention and devotion to duty and to the interests of his fellow-citizens, he inspired their respect, confidence, love, and loyal devotion. He attained the highest honors which his fellow-citizens could confer upon him as an American citizen by adoption and born a foreigner.

He was three times in succession elected a State senator from his home county, Camden, and was president of the senate in 1876-1879 and 1880, when his party was in power, and while a member of his State legislature was elected to the United States Senate in 1881 to succeed Senator Randolph, and served in this Chamber to the expiration of his term in 1887.

Politically General SEWELL was a staunch Republican, and took an active part in all public and political affairs. He was elected a delegate to the Republican national conventions of 1876, 1880, 1884, 1888, 1892, 1896, and 1900, and was made the chairman of his State delegation in each of the conventions.

In 1895 he was again elected to the United States Senate to succeed Senator McPherson, and in 1901 he was reelected for the term beginning March 4, 1901, and ending March 3, 1907.

In addition to the many duties of the official positions he held, he was engaged in and connected with many business enterprises—banks, trust companies, and philanthropic societies.

He took an active interest in the organization of the National Guard of his State and held high positions in that organization, and was the commander at the time of his death.

He was most earnestly interested in the proper management of the National Homes for Disabled Volunteer Soldiers, and was vice-president of the Board of Managers. He was emphatically a busy man in the fullest sense of the phrase. His energetic and earnest devotion to his multifarious duties doubtless hastened his untimely death in the meridian of his usefulness and honors.

The respect, the friendship, the love, and devotion of his constituents, neighbors, and associates were made most manifest at his funeral obsequies.

The people en masse turned out to pay their last tribute to his memory. It was a most impressive scene. The religious services were conducted at his residence by Bishop Scarborough, of the Protestant Episcopal Church, of which General SEWELL was a member of the vestry. My acquaintance with him began when he entered the Senate in 1881 and became a member of the Committee on Military Affairs.

Our acquaintance soon ripened into warm personal friendship, which continued to his death. The more I was with him and the more I knew of him the greater were my respect, admiration, and friendship for him.

In his bearing General SEWELL was quiet, reserved, and unassuming, and was cordial and faithful in his friendships.

As a Senator he was faithful, industrious, and useful, and performed his full share of the duties and labors of the Committees on Appropriations and Military Affairs and others of which he was a member. In his death the Senate, his State, and our country have suffered a serious loss. We tender to his bereft family condolence, and point our countrymen to the useful life, the meritorious services, and the illustrious career of WILLIAM J. SEWELL, the citizen, the soldier, the statesman, the patriot, for encouragement, inspiration, and emulation.

Mr. ALLISON. Mr. President, the senior Senator from New Jersey [Mr. KEAN] and the senior Senator from Missouri [Mr. COCKRELL] having detailed at large the military career and the

civil service of the late Senator SEWELL, I shall only review them briefly.

My personal acquaintance with General SEWELL began in 1881, when he became a member of the Senate. Prior to that time he was well known to me as a leading citizen of the State of New Jersey and as one of the earnest, active, and influential Republicans of that State. He was widely known as a great and gallant soldier, as a conspicuous member of the New Jersey senate for many years, and as a potential factor in the political and commercial affairs of that State. He had been an important member of two Presidential conventions and had taken an active part in their deliberations; and as a leading Republican he was well known in nearly all the States of the Union. Therefore when he came to the Senate he was by no means a stranger to those then serving in this body, and enough was known of his capabilities to anticipate the value of his service here, for it is a fact that when a Senator is first elected to this body there is as a rule a careful analysis made by Senators of his record in civil or military life, in order that a just estimate may be formed of his prospective value in this Chamber.

After what has been said by the Senators who have preceded me it is not necessary that I should dwell at length upon the active participation of Senator SEWELL in the affairs of the State of New Jersey, upon the great ability displayed by him as a business man in the conduct of large affairs in his State, or upon his distinguished record in the civil war. Because of his special knowledge of military affairs, immediately on his entry into the Senate he was placed upon the important Committee on Military Affairs. During the entire period of his service in this body he remained a member of that committee and participated actively, as those who served with him well know, in the framing of all the legislation considered and promulgated by it. At his death he was the ranking member of that committee next to the chairman. As is well known to us all, he was especially conspicuous in the military legislation made necessary by the war with Spain. His services were so highly appreciated by the President that he tendered him a military command, with the rank of major-general. He was inclined to accept this distinction, but because of his valuable services on the committee and in the Senate at this critical period, at the unanimous request of the Republican Senators then here, he declined the proffered honor.

Owing to the political situation in New Jersey he failed of reelection to the Senate in 1887, though he was the unanimous choice of his party, and his friends made a vigorous effort to secure his reelection. His defeat was occasioned by the legislature being closely divided between the two great political parties. Again, in the winter of 1895, he was the unanimous choice of his party for Senator and was then elected, and reelected in 1901, so that at the time of his death he was on the threshold of his third term in the Senate.

There being a vacancy in the Republican membership of the Committee on Appropriations, Senator SEWELL was appointed a member of that committee in March, 1897, because of his general and special knowledge of matters coming before it, especially because of his long service here, because of his intimate knowledge of all subjects relating to military matters and appropriations for the support of the Army, and also because of his extensive knowledge of all matters connected with the National Homes for Disabled Volunteer Soldiers, of the Board of Managers of which, selected by the two Houses of Congress, he was an active member. His sympathy for his comrades in arms and his desire to make these Homes effective for the comfortable support of the veterans admitted to them led him to give particular attention to this subject.

He spent much time in this labor of love, making at least two visits annually to each of the Homes; and during several years he had general charge of one of the most important of them. He made their cause his own, and was so familiar with every detail respecting their wants that his recommendations were, as a rule, followed by the committee and by the Senate. This was because of his special information and experience and the confidence of his associates in his judgment. This was true not only as respects all appropriations involving military affairs, but his views had great weight in the Senate upon all matters which engaged his serious attention. He proved himself a most valuable member of the Committee on Appropriations, giving close attention to the detailed work assigned to him. He was at all times a safe counselor and a wise and judicious legislator.

Whilst an earnest Republican, he often differed with his Republican colleagues upon matters of detail, and on such occasions was resolute and independent in the expression of his opinions in committee and in the Senate. Keen of perception and with a broad and thorough knowledge of affairs, he immediately grasped the essential points of a proposition. He possessed the faculty of rapid deduction; was quick to make up his opinion respecting a question under consideration, and, when made, was slow to surrender his own judgment to others.

Senator SEWELL was a man of comparatively few words. It was generally understood that he said only what he meant and meant always what he said. His opinions were expressed with force and directness and were susceptible of no misinterpretation.

It may be truly said of him that he was a most able, valuable, and useful Senator, not only in the committee room, but on the floor, and was, therefore, of great service to his State and nation. His death is a distinct loss to his country, and is greatly deplored by all those who served with him in this body.

The home life of Senator SEWELL was ideal in its hospitality and surroundings. Socially he was always most agreeable, courteous, and kind to those with whom he came in personal contact. He enjoyed especially the companionship of old comrades and friends and greatly endeared himself to them. For these agreeable personal qualities I became strongly attached to him, and because of them and because of his conspicuous public service and his high character as a citizen and Senator it is fitting that I should take this occasion to pay this brief but imperfect tribute to his memory, having served with him and known him well during all the period of his membership in this body.

Mr. MORGAN. Mr. President, although Senator SEWELL was severely antagonized to my State and the South during the civil war, and was opposed to me in our political affiliations during the period of our service in the Senate, there were many points on which we were in cordial agreement. This is especially true as to almost every question that concerned our relations with foreign countries during our joint service in the Senate.

I have always felt stronger in having the support of his opinion and his wise judgment, which usually amounted to a firm conviction, when any measure was presented that taxed me with perplexing doubts. In this just confidence in his sincerity and wisdom I believe that I only shared the opinion of the entire Senate.

During several years we were closely associated as members of the Senate Committee on Inter-oceanic Canals.

In the personnel of that committee the majority were Republicans, and, as chairman, I would have had a disagreeable task if any party lines had affected the conduct of its members as to the great and delicate questions confided to the committee by the Senate.

This is a fitting occasion, I think, to say that no body of Senators could have more completely discarded all political influence from their thoughts and actions, or could have devoted their labors to the service of the whole country more impartially, than has been true of that committee in performing the exacting and difficult task assigned to them by the Senate. And I am glad to say, in honor of our departed colleague, that his thoughtful and laborious work on that committee and his wise counsel were among the strongest supports of the supreme duty that Providence has assigned to the United States, of providing a highway for the nations between the great oceans.

He was very proud to be associated with this work, that only the United States can perform, and deserves the highest honors that its final completion will confer upon those who shall accomplish it.

The subject was as broad as the ocean-borne commerce of the whole world, and the naval power of the United States and those intrusted with its exploration were required to proceed with caution, but with bold and fearless step, to reach conclusions that are logically safe and will be practically secure for all time. But this honest and able Senator was equal to the duty and fearless in its discharge. The benefit of his work on that committee will be felt through many ages to come.

In this service and in all else that was confided to him General SEWELL exhibited a mental trait which was a distinguishing characteristic. He always looked within for his convictions and opinions, and outwardly for the facts upon which he based them.

He did not disregard or hold in light esteem the opinions of other men, but his judgment was his own; he borrowed nothing from currents of thought in other minds, and no reflected color of selfishness was permitted to stain the clean record of his final judgments.

He was not aggressive in pressing his opinions on others, but he defended his own convictions with decided firmness.

There was a directness, force, and singleness of purpose in his action in respect of public affairs that engaged his attention, which left no doubt of his sincerity, and a clearness of conception as to his duty, as he understood it, that forced him into open controversy in support of his convictions with fearless intrepidity. It was not his adversary with whom he waged any conflict of debate, but with his adversary's position or the principles he espoused. So that in the fiercest controversy he indulged in no personalities or invectives, and in his most strenuous debates he wounded no man's feelings and never made an enemy. This is a noble trait, a very great mark of true manhood that should characterize the bearing and deportment of an American Senator.

General SEWELL has left with us the memory of a high example in his dignified and honorable course in this Chamber. His Irish blood fed a passionate flame that warmed his heart, quickened his spirit, and drew his affections to high aims and generous actions.

His friendships had the honest and sincere loyalty of love. They were honorable and ennobling, and were never used for convenience or subordinated to personal advantage or unworthy ends.

He was a wealthy and powerful man, but he did not court the favor of the rich or the support of the powerful at any expense whatever to his dignity or his principles.

He never used his wealth or power for the oppression of the weak or the poor, nor did he, with a flaunting display of generosity, graciously condescend to help them. His generous Irish blood gave a natural flow to his sympathies, and he met the poor and the weak with the hand of friendship that was never empty or grudging and very many have grasped it in silent, tearful gratitude.

As a soldier he was even rashly courageous. He did not stop to study strategic arts of war when the enemy was in array against his flag.

His movement was to the front, and he touched elbows with his men as he marched steadily into the deadliest conflict. He did not rejoice in battle, and was not lured by the ambition for victories; but he could not fail to respond to a call of duty because death was reaping its harvests from the field of battle. He was as gallant a soldier as any who fell or any who survived the battle of Chancellorsville, and a higher title to a soldier's chaplet of honor no man can win.

Senator SEWELL left a record here of duty well and faithfully performed that will long be referred to as a marked example of high Senatorial character, and will confer lasting and special honor upon the State of New Jersey.

Mr. CULLOM. Mr. President, with sadness I join with other members of the Senate in paying tribute to the memory of our late colleague, Senator SEWELL.

The majority of the members of this body knew him well. To know him was to admire him. He was a splendid citizen, a gallant soldier, an able statesman. He was a remarkable man, of unusual power and singleness of purpose, open-hearted, outspoken, and never hesitated to condemn what he deemed to be wrong or to approve what he believed to be right.

Senator SEWELL for many years possessed great influence in his State, and was equally great in the Senate and generally in the councils of the nation. He had rare good judgment, which is the one necessary element of success (whatever may be a man's other qualities or acquirements), in the proper discharge of private or public duty.

Mr. President, Senator SEWELL made a splendid reputation in the field as a soldier during the civil war and at home in New Jersey in the management of private business and as the leader of his party for many years before he came to the Senate in 1881. He was a positive man, and did not at any time shrink from any contest. He was an honorable opponent, and when he gave blows he expected and was willing to receive them in return.

Senator SEWELL was not willing to surrender or compromise when he was sure he was right. He was for the right for right's sake. He was a man of energy, and in the business walks of life he was in the habit of doing things, and could see from day to day and week to week that he was accomplishing his purpose.

The business of the Senate, when compared with the large business enterprises with which Senator SEWELL was familiar, moves slowly. After he had been in the Senate a short time he became restless and felt that he was not accomplishing very much, and while chafing under such feeling on one occasion he said to me: "When I was in private life, engaged in business, I felt that I was doing something for my family and the community in which I live; when I was a soldier in the Union Army, I felt that I was helping to save the Union and the flag; but since I have been in the Senate I do not feel that I am doing any good whatever."

However, Senator SEWELL was very soon recognized as one of the strong men in the Senate and found himself sought after and consulted on all difficult and important measures. He did not like to talk, and sometimes seemed weary of long speeches by other Senators. He seldom addressed the Senate, but when he did he had something to say, which he said in the fewest words possible in order to present the facts and make his views plain.

It is said that brevity is the soul of wit. No man ever demonstrated it more perfectly in the Senate.

Mr. President, as a legislator Senator SEWELL did not stop to theorize. He saw the situation and determined upon his duty and with courage performed it. He was the architect of his own fortune. He was, as has been said by the senior Senator from New Jersey, a native of Ireland, but, like thousands of others from that unfortunate island who came to our shores, showed himself,



when his adopted country called, ready to offer his life in defense of liberty and the Union.

He cared nothing for show. He believed in plain living. He was a modest man, as most brave men are. His health failed him in the last years of his service here, and while believing that death was "waiting at the door," he struggled on until at last the end came, and he passed away.

Mr. President, it seems to me that I am constantly standing in the shadow of death—death in the family, death in the Senate. No class, age, or rank can long escape the great destroyer.

Senator SEWELL lived in this his adopted country for more than sixty years. He witnessed its growth and prosperity. He took part in that momentous struggle in which the life of the nation was involved. He witnessed in that struggle the downfall of slavery and rejoiced in its disappearance from our fair land. He saw how when the war ended the nation sprang forth as with a bound into new life and wealth and power. He lived to see this country increase in wealth and influence among the nations as no other has done in centuries. What a satisfaction to him to feel in his last days upon earth that he had done his part in maintaining the Union and in consecrating it anew upon the enduring foundations of liberty and equality.

Some one has said that he is great who is what he is from nature and who never reminds us of others. The subject of this memorial service to my mind comes within that definition.

Mr. President, I close what I have to say by stating that I have not known in my experience a more conscientious citizen, soldier, and statesman or better friend than Senator WILLIAM J. SEWELL.

Mr. PROCTOR. Mr. President, it was my good fortune to sit next to Senator SEWELL in the Military Committee room during the entire time of his service since he last came into the Senate. He was very regular in his attendance at the meetings of the committee; it is needless to say a good worker on all matters of business before us. No man at the table was better equipped than he for the consideration of all questions pertaining to the Army. His eminent service during the civil war, his natural bent for military affairs, his strong judgment and earnest devotion to the good of his country, especially qualified him for the performance of his duties on that committee. And he was resolute and forceful in their discharge. That there was never any doubt as to where he stood on any question, nor that he would stand there to the end, goes without saying. He was sturdy and strong, mentally, physically, and in natural temperament. Courage and constancy were leading traits of his character. These qualities made him a born soldier of the highest type, but not for the tinsel and show of military service. But when the welfare of the country was at stake his intense loyalty was aroused and he was filled with the inspiration of combat. His entire military career was especially creditable, but his great charge at Chancellorsville at the head of the Second New Jersey Brigade, when he captured nine stands of colors, stands out as most glorious, and for this he was awarded a medal of honor. Here he was on the offensive, and his work was dashing and brilliant. But had the occasion arisen for a desperate defense of a position, no soldier would have met the situation better than General SEWELL. He would have stood like a rock. No matter what the odds, surrender would never have occurred to him as a possibility to be considered. Surrender was a word not found in his vocabulary.

In legislation he was wisely conservative, but not retrogressive, and an earnest believer in the future of his country. His judgment on military matters seemed almost intuitive. My seat next to his gave me the benefit of his aside remarks. "That will never do" was a frequent one, when an objectionable measure was brought up. But, though instantaneous in his decision to oppose, he was calm, deliberate, and methodical in acting upon it. And in these asides there was often a vein of rare humor, in which he seldom indulged publicly, but in which his well-rounded character was not deficient, though it might have seemed so to the casual observer. Take him all in all, measure his life and work by our best standards, and there are few who will take rank for sterling manhood, for great endeavor and achievements, for ripe judgment and vigorous common sense, with WILLIAM J. SEWELL.

Mr. DANIEL. Mr. President, in common with his colleagues, I had great respect for Gen. WILLIAM J. SEWELL, of New Jersey, late one of the Senators of that State in this body, and with them I deplore his loss to his State, his country, and the Senate. He was a manly man, of strong convictions and strong sense, and of great activity and usefulness, and he possessed many qualities that attracted the affection of friends and the confidence and respect of all men everywhere. The many positions of responsibility, both of private and public trust, that he held and the acceptable manner in which he discharged them bespoke his great ability and force of character, while the frequency of his election to office, both State and Federal, demonstrated the favorable

judgment pronounced upon him by the people of the great and progressive State who knew him best.

New Jersey is a Commonwealth in which the "isms" have found but little entertainment and which deserves the characterization of "conservative" in the best sense of that term. I say in the best sense, because the word "conservative" is often abused and employed as a shelter of indecision, of neutrality, or of time-serving. General SEWELL, like the State which he represented, was conservative in the best and highest sense of that word.

His career was indeed a remarkable one. It was such as could pertain only to an extraordinary man and an extraordinary country. His lines in life and my own were far apart and generally far different. He was born in Ireland; I in the oldest settlement of the English race in America. He was an active man of affairs—merchant, railroad president, and business man; I, a local lawyer. He, in settling in New Jersey at an early day became identified with his adopted State and perforce of his environment was imbued with all the predominant ideas of the Northern people. I, rooted to the soil of my fathers, was by nativity, heredity, education, and environment alike imbued with the ideas that had been born in the birth and has grown with the growth of the pioneers of our race and of our free and independent American institutions. But these things with right-thinking men and with right-feeling men have never been a bar either to admiration or confidence or friendship, and there were many aspects and relations in which we met on most congenial ground.

He had in part represented here one of the old thirteen States that founded this Union and which had many ancient and historic and friendly ties with my own. He was a thoroughgoing and enthusiastic American, and he had been a soldier—a soldier of such qualities as always commands the admiration of all true soldiers. So American was he that there was nothing in his appearance, manner, bearing, language, convictions, or expressions by which anyone would suppose that he was not "to the manner born," and anyone who would utter in his presence a sentiment of patriotism, of principle, or of generosity would be sure to strike a responsive chord in his bosom.

I never knew General SEWELL until I met him here and was never thrown with him in intimate social relation, but I was often brought in personal intercourse and consultation with him in our service in this body, especially pending the Spanish-American war and the legislation therewith connected, when his position as a leading member of the Committee on Military Affairs gave great importance and far-reaching consequence to his labors. Those labors were great, they were valuable, and they were highly distinguished. They were supported by his natural fervent energy, by his familiarity with military affairs, which had been constantly refreshed by his performance of duty in New Jersey as major-general commanding the National Guard of that State. They were also no little aided by his experience in the civil war, where he rose from the rank of captain in the Fifth New Jersey Infantry to be a brigadier-general and then a major-general.

In that war he and I were in opposing armies, which tested each other's steel in more than 600 battles, and some of those battles were among the fiercest, bloodiest, and greatest in soldiership and in generalship alike which are known to human history.

In that war Americans of all sections achieved a respect for each other by those qualities which command and which compel respect and relegated to the rear narrowness and bigotry, to be replaced by confidence and friendship. A most glorious achievement!

General SEWELL wore upon his body the scars of Chancellorsville and Gettysburg and had attached to his name the highest decorations that a brave soldier can win. None respect more such honorable distinctions, won in such manner as he won them, than the men who fought against him, and none can know better than they what they counted for and what they cost him.

For myself, I respected him beyond what those distinctions themselves either expressed or implied, first, because he appeared to me to value them more than he valued the many honors he had attained in political life and more than he valued his manifold successes in business, which had brought him fortune; and, second, because I never heard him say a word or saw him show a sign of prejudice, resentment, or animosity toward the equally brave and patriotic men who had encountered him. On the contrary, I know the fact that he took keen and earnest interest in urging honors for ex-Confederate soldiers who volunteered in the Spanish-American war, and that it gave him profound gratification to see them intrusted with the flag of our country and to show them the fitting distinctions deserved by those who bear it well.

Such things as these betokened to my mind more clearly and more decisively the true soldier and the true patriot than any title or any medal of honor; and I record here, as it were standing by his tomb, the grateful appreciation which I feel and which

will be felt not only in the South, but throughout the borders of the Union. My observation and experience alike have taught me that in these respects General SEWELL was like the best and the most of the soldiers of all parts of America. Those who have the rankest and most unbridled tongues have seldom indeed become the heaviest of the burden bearers. Those who have borne the burdens of the battle have shown the least degree of grudge against those who bore such burdens against them; have rarely, indeed, if ever, used belittling terms concerning them, and have always been the readiest, the heartiest, and the most cogent forces of restoration, conciliation, order, peace, and friendship.

In the travail of woman man is born upon the earth. So in the travail of mind is knowledge wrested from ignorance, and in the travail of both body and soul are the nations molded under God's providence and lifted up to higher and purer and better things. The dead soldier and statesman whom we mourn to-day and to whom we say our last farewell bore his part like a true man in the heavy travail of his day and generation; survived to share the joys of victory, to promote and welcome the dawn of a broader and brighter day, to see the new generation come afield "and in mutual well-beseeming ranks march all one way."

And so his life was crowned with such fullness of achievement and satisfaction as should content the reasonable ambition and hope of man. We may rejoice that the infirmities of age had not bereft him of his faculties ere life closed, and that such scenes as those which his heart craved and had yearned for were before his vision. Giving his body to the dust and his memory to his grateful country, we pray that He who alone can heal may heal the wounded hearts of his family and of those who knew him best and loved him most.

Mr. WARREN. Mr. President, if I were asked to name the dominating power in the Senate of the United States, I would say it is the irresistible influence which has come to us as a legacy from former members who have passed away.

Whatever this legislative body has of patriotism, of dignity, of devotion to duty, of methods for the general good, is due in great measure to the ideals established by the illustrious dead whose names have illumined its roll of membership.

And as the list lengthens and there is added to it the names of those with whom we have been in personal touch as friends and colleagues—aye, almost as brothers—we who remain, and upon whom it devolves to pay a word of tribute, are more and more dominated by the dead.

The great orators, the brilliant debaters, the noted statesmen, who have passed away—the Clays, the Websters, the Calhouns of the Senate—have not been the only class of members to bring the Senate to the degree of respect in which it is held as a dignified, orderly, conservative, and patriotic legislative body.

A part, equal perhaps in importance, has been taken by those who have performed their duty as they have found it—men whose days with the schoolmaster were brief, self-taught in the rough school of experience, carrying a commission rather than a diploma, but knowing humanity to its inmost heart, and quick to the needs of the citizenship of the land. Men of this mold have left a potent impress upon the country, upon Congress, and upon those who have succeeded to their place in this body.

Such a man was WILLIAM J. SEWELL, United States Senator from New Jersey from 1881 to 1887 and from 1895 to 1901—our friend and colleague in whose memory we meet to-day to pay what tribute our weak words can bestow upon the record of his life and deeds.

General SEWELL was not an American born; his birthplace was in that land which has given many illustrious statesmen, citizens, and soldiers to this their adopted country. He was not equipped with wealth to start his career, and was forced to fight the battles of life without the aid and support of father and mother, both having died when he was a mere lad. The hard fortunes of the sea first engaged him, and as a boy before the mast he sailed to the then almost unknown shores of the Orient. But hard as these first conditions were, he and not they obtained the mastery, and, starting the voyage as boy, he ended as mate.

The story of his life is a record of success; not success coming by accident, influence of connections or friends, but by his own untiring perseverance, his devotion to duty, his capacity—his genius in fact, for hard work.

In every undertaking of his life, he commenced at the lower-most round of the ladder. When he went to the defense of his adopted country, he offered himself as a private soldier, but there must have been in the face and figure of the handsome, stalwart youth of 25 evidence of the qualities of leadership, for his companions in his company elected him their captain. He was faithful to every trust imposed in him. He was brave in battle. One who has chronicled his military life says:

His charge at Chancellorsville was one of the most brilliant feats of the war and won for him a medal of honor. It was the morning of May 3,

1863, the last of the three days' battle. The Second Brigade of New Jersey had but two hours' sleep during the night. They had formed in fighting line before daybreak and had been under continuous fire for over four hours. Many of their comrades were dead. More lay wounded and dying about them. General Mott had been injured and carried from the field; general Berry had been killed, and the command fell upon Colonel SEWELL.

To the south and in front and to the west and on the right flank were the Confederate troops. They were swarming forward in overwhelming numbers and had seized a hill from which the Federals had been driven and which SEWELL realized must be recovered. With the instincts of a born soldier he rallied his disheartened forces, and seeing them hesitate in the presence of the foe in such overwhelming numbers that it seemed madness to charge he galloped to the front in advance of the brigade until he stood in distinct view of all and then exclaimed: "At least Jerseymen, follow me!" His example was irresistible. With a rush and a cheer the whole line went forward. Up and over the hill they drove the enemy and on the crest of the earthworks planted the regimental colors.

He entered the service a captain and left it a major-general.

After the smoke of battle cleared away, General SEWELL put off the uniform of a soldier and commenced civil life in a humble capacity in his chosen profession of a railroad man. He started as yardmaster and agent and became president. The qualities of leadership, mastery of details, unremitting work, carried him onward from the lowest to the highest place.

We know his life after he became a member of this body. Seemingly austere at times, perhaps, in manner, yet he was the embodiment of kindness and true courtesy. I had the honor to serve with General SEWELL for over six years as fellow-member of the Committee on Military Affairs and some two years on the Committee on Appropriations, and I learned to know and value his worth as a man, as a legislator, as a friend. My association with him brings to mind—

That best portion of a good man's life—  
His little, nameless, unremembered acts  
Of kindness and of love.

He let no day close without doing good deeds for his friends, for his colleagues, for his constituents; and it was with profound sorrow that the fatal tidings came that his work was done.

I recall the active interest taken by General SEWELL in legislation for increasing the efficiency of the National Guard. He was an example of what can be accomplished in war by the citizen-soldier, and it was his constant desire to upbuild and improve the National Guard service of the country in order that it might become a bulwark of defense to our institutions.

It was said by a former member of this body that "a reformer and his reform rarely succeed at the same time." To-day, as we pay our meed of praise to our departed colleague, the reform for which he strove so long and well is about to become ingrafted in the law of the land. While he did not live to see his wishes consummated, we know that his ideas have taken shape and form, and that to his work and energies we owe light and wisdom with which to act in the consideration of the measure which carries into effect his ideas.

While striving to benefit the National Guard of the country, in which he took so great an interest, he never lost sight of the old soldiers with whom he served, and the duties he performed as a member, vice-president, and president of the Board of Managers of the National Home for Disabled Volunteer Soldiers served to ameliorate the hardships of many of his old comrades.

And so ran the story of his life. As a boy meeting cheerfully the obstacles which poverty placed in his path; as a youth taking up the hardships of the camp and field, braving the perils of the fiercest battles of the civil war, and winning for himself imperishable fame in the annals of that great conflict; as a business man, gaining the respect and confidence of a great State; as a legislator, true to his constituents, his friends, and his country; and in all, in youth and manhood, in war and peace, in his private and public life, living close to the highest ideals of human life.

Thus he won success—nay, he did more, he deserved success.

Mr. PENROSE. Mr. President, I always entertained sentiments of the highest regard and esteem for our late colleague, General SEWELL, in my acquaintance and friendship with him, extending over many years before I came to this body, and these sentiments were intensified by the more intimate associations which I formed with him in the Senate. I sat next to him in this Chamber. We resided in adjoining cities and represented adjoining States which have many common interests. I had many opportunities to observe the strength and greatness of his character and to fully appreciate the loss which we have sustained in his death.

The career of General SEWELL was distinguished by splendid achievements; it affords an inspiration to any young man and illustrates the opportunities of our American Republic. What he accomplished was not the result entirely of good fortune, but the rounding out of earnest, intelligent, and persistent effort. He was born in Ireland, of a respectable family in moderate circumstances, being English upon his father's side and Scotch-Irish upon his mother's. The original coat of arms of the Sewell family was first conveyed upon one of the line for gallantry at the battle of



Crecy in defense of the Black Prince, and to this was added later the crest "a mailed hand brandishing a cap of liberty," a republican emblem that could only have been won by resistance to kings.

He left home at the age of 16 to better his fortunes and to create a career. Joining an elder brother in New York in a mercantile capacity, he soon afterwards became a sailor before the mast, and made a number of voyages in various directions, finally becoming second mate by his indomitable energy and forceful will. Late in the fifties he was found in Illinois occupying the position of what might be termed a soliciting salesman, traveling the prairies seeking business for the house which he represented. It was then that he heard the noted debates between Mr. Lincoln and Mr. Douglas, which made a profound impression upon him, and tended largely to his adherence to the Republican party in late years.

By chance being in New Jersey when the war commenced, his naturally martial spirit and his devotion to his adopted country induced him to apply to the governor of the State, Dr. Newell, for the position of second lieutenant in one of the regiments of that State. Governor Newell was so much impressed with his appearance and his decided expression of views as to the conduct of the war that he appointed him a captain. Entering as a captain, he retired at the end of the war brevet major-general. Upon many a battlefield he attested his gallantry and military prowess, notably at Chancellorsville, where he led the New Jersey brigade and recaptured from the Confederate forces a number of Union standards.

At the end of the war he found himself without any special friends in the East, with no money accumulated, and no profession upon which to depend. Happening to be in New Jersey, he entered the service of the Pennsylvania Railroad Company in a minor capacity, and remained continuously with that great corporation until the time of his death, becoming finally president of its lines in New Jersey. As a railroad official the same attributes characterized him as marked his military career. He was fearless in the discharge of duty, quick to grasp an opportunity to better the road which he represented, and singularly fortunate in inspiring absolute loyalty and implicit confidence in both his associates and subordinates.

Having settled in Camden, N. J., General SEWELL turned his attention to politics, and was soon elected to the State senate, where he served for a number of years, some time as president. In 1881 he was elected to the United States Senate, defeating for the nomination such distinguished Republicans as George A. Halsey, George M. Robeson, and William Walter Phelps. At the expiration of his term, the State having become Democratic, he retired to private life. It was thought at that time that New Jersey was hopelessly Democratic and the prospect of Republican success very remote. Here it was that he exhibited that wonderful sagacity in political as in other affairs which distinguished him throughout life. Almost unaided he kept up the organization in his State with such perfection that in 1895 he was again elected to the United States Senate, and, at the expiration of his term, was reelected for the term expiring March 4, 1907.

Among the many admirable traits in General SEWELL's character several stood out preeminently. His modesty was evident. No one, however intimate with him, ever heard him boast or refer, even in the most indirect manner, to his achievements during the war or in the great and important political events in which he had participated in civil life; in fact, he seemed to deprecate any personal allusion to himself, and when there was any praise to be awarded he was sincerely desirous that others should be the recipients rather than himself. He was preeminently noted for the inviolability of his word. The old saying, "His word is as good as his bond," applied with singular force to General SEWELL, and in his case could even have been enlarged, for his word was better than his bond. He was not a man profuse in protestations, neither did he make a promise nor incur an obligation without giving due consideration to what was involved, and whenever he said he would or would not do a thing, there was no retraction or reluctance, no compromise. He absolutely fulfilled what he had undertaken, so that in his own State political friend and foe alike fully realized that in dealing with him there was nothing held back, there were no unfair surprises intended, but from the first his course was marked with fairness and candor.

He exhibited a remarkable loyalty to his friends. No man ever lived who was more thoroughly devoted to his friends or truer to their interests. His friends did not embrace an army, and he was careful as to whom he placed upon his list or brought near to his heart, but he could not be shaken when once his friendship and confidence had been acquired by anyone. If he erred at all, it was in his steadfast allegiance, unwilling to see things which with other men might have weakened the association. No slander, no innuendo, no attempt to depreciate or injure anyone who was upon terms of friendship or intimacy with him had the slightest effect.

He possessed keen discernment. Few men have excelled Gen-

eral SEWELL in the extraordinary faculty which he possessed for picking out the right person for the work he had in charge. Without this faculty he could have hardly accomplished his achievements as head of great corporate interests and as the recognized leader of a great political organization in one of the great States of the Union. He seemed to know by intuition exactly how to develop the best in a man, to discern what he was fitted for, and to realize his capabilities, influences, and aptitudes. Intrusted as he was with responsibilities which would have appalled almost anyone, he was able to bring about wonderful results, because surrounded by a staff of efficient assistants who took their instructions from him, followed them faithfully, and never betrayed in the slightest degree the faith reposed in them.

He possessed great industry. It was General SEWELL's habit never to leave his office until he had disposed of every matter that could be attended to that day. His thoroughness in the dispatch of business was one of the secrets of his success. No detail, however insignificant, escaped his attention; no request, however unimportant, was not promptly acted upon; no person ever sought an interview upon a proper mission and was refused; no letter worthy of an answer remained unresponded to.

General SEWELL possessed great breadth of view. He was a reticent man. He was a clear and forceful speaker, without pretending to be an orator. In private life, was not wont to engage in much conversation. His was a reflective and absorbing mind, always anxious for information, never conceited as to his own opinion, willing to be advised if he thought the advice judicious, and capable of grasping a situation, both as to its strong and weak points, almost instantly, which would have required from most men considerable time for reflection. His career in the Senate illustrates his character. There was scarcely a question presented to the Senate during the thirteen years that he was a member upon which he did not from the first reach a correct conclusion.

He was loyal to his country, a loving and devoted husband and father, steadfast to his friends, and faithful to every trust confided to him. As a citizen, soldier, and statesman his career was marked by loyalty to truth and principle. His name will have a bright and honored place in the history of our country.

Mr. DEPEW. Mr. President, it was my privilege to know Senator WILLIAM J. SEWELL for more than a quarter of a century. He and I, during the whole of that period, were in the same profession. It brought us close together in the intimacy of antagonisms and of friendships. Our acquaintance, our intercourse ripened into the warmest friendship, and the more years I knew him the more I appreciated the qualities of mind and of heart which enabled him to accomplish the career which we celebrate here to-day.

I know of no example at this particular period which is so rich in encouragement as that of Senator SEWELL. Extremes always go together, and we are just now, more than at any other age, at the extremes of optimism and pessimism. There never was a time when for an American there was so much to be proud of, and to be hopeful for, and to inspire ambition, as now. And there never has been a time when from the professor's chair to the pulpit, from the pulpit to the press, from the press to the platform, and from every public source, there were so many and such unanimous expressions in regard to the failure of our institutions from now on to permit the development of the individual. There is the universal cry everywhere that these combinations which are forming from the natural tendencies of our age, both of capital on the one side and of labor on the other, are every day wiping out the unit and recognizing only the mass.

It is the glory of our country that it has been built upon the individual; that under our institutions, differing from all others of all other lands and of all times, it makes no difference what may be the start that the boy has in life, if he has in him the making of a career, the circumstances, conditions, environments, and institutions enable him to make it to the limit of his capacity.

But we are told now that that element in our institutions has been negated by the character of our industrial and financial development; that it is the corporation, it is the great organization of the trust, it is the mighty combination of labor which have wiped out the foundations upon which we have built and that which is the hope of the future of the Republic of the United States. So says the lecturer, so says the professor, so says the theorist, so says the agitator, so says the demagogue.

Now, here we have in the career of our friend the best answer I have ever known to just that question. He arrived in this country and started handicapped, as our American youth are not. All the great successes in our financial, our industrial, and our public life have been made by those who started with nothing, with no equipment except brains, character, industry, and ambition. But they were American citizens with all that that means. However, here was a foreign lad with none of those influences of family to which he could go for advice, and none of those influences



of environment of the village or the hamlet or the county which would be proud of him and push him forward. Notwithstanding that, you have heard here in these various eulogies what he accomplished, and still did not live to the full period allotted to man.

He began as a poor boy without a penny and accumulated a fortune. He began in public life simply as a worker in the ranks of his party and reached the highest position that his country can give to one born upon a foreign soil. A member of the senate of his State, elected the president of the senate of his State by his associates, after he had been there two terms and he was entering upon his third, he was elected to the United States Senate and chosen for three terms. Starting as a soldier in the humblest position as an officer, by gallantry he retired a brigadier-general, and was then brevetted a major-general for gallantry in the field. Commencing in the humblest capacity in the railway in which he worked for nearly forty years, he became the president of all its lines in the State in which he resided.

Now, there is another element which is a refutation of these pessimistic views. He began his career in the corporation, in which the individual is eliminated, and all private views, private character, private ambitions, and private ability are reduced to the general mass, says the theorist. And yet it was in that career, which occupied the whole of his active life, in the service of one of the greatest corporations in this country that he achieved in finance a success, in public life a success, in his profession a success, as a soldier a success, in any one of which any man would have been said by his neighbors and his family to have accomplished an honorable and distinguished career.

If I may be permitted, as the trend of discussion has gone principally upon what he achieved, I think that his success was due to the directness and the courage which he had. The courage which he displayed upon the battlefield was the courage which was displayed by millions of his fellow-citizens who served under the one flag or the other during the civil war. But he had a higher courage than that mere physical courage, which is admirable, but with which our race is gifted. He had a moral courage, and to that he owed the major part of his success.

During the period when he was most active in politics, when he was most ambitious for popular favor, there prevailed through this country that singular craze and prejudice which said that the million of men engaged in the profession of railroading were unworthy of public confidence, and were dangerous to nominate for public office. There were times when this rose so high that, while both parties wished the services of the railway man after the nominations were made, neither party dared nominate a man upon the pay roll of a railroad company for a village, a county, a State, or a national office.

Many who had ambitions at that period sought to gratify their ambitions by denying the profession in which they were engaged or minimizing it; but Senator SEWELL always remembered that he was one of a million men engaged in a profession which required as much, at least, if not more, of ability, of intelligence, of sobriety, of industry, of fidelity, and all the qualities that go to make up good service and good citizenship, than any other pursuit in the country. He remembered the camaraderie that he had with these men, and he was determined that by no act of his should there be a slur cast upon this profession that they were unworthy of public confidence compared with those who were engaged in other gainful and in other reputable pursuits in our country.

It was the peculiarity of this craze, of this prejudice, that it applied only to those who were on the pay roll and receiving their stipend—salary, wages, whatever it might be—in the regular way from the treasury of the corporation. During the whole of that period the president or the general counsel could retain distinguished lawyers who would receive as compensation many times what the officer or the general counsel had in the way of salary, who would appear in the State and in the national courts, and sometimes when the Government and the corporation were in antagonism, and yet that politician becoming a statesman, or one at the time, could appear in this capacity, and then upon the platform or in Congress denounce the corporation and retain the confidence of his fellow-citizens.

I remember an incident at a national convention where SEWELL and I were frequently in consultation upon this subject and in which I was personally interested, where a gentleman distinguished in his State and in the nation came to me and said, "You should retire instantly, for the sake of your party, from the position in which your State put you as its candidate for President, because in our State we have educated the people to believe that anyone who holds any position under a railroad, whether it is a brakeman, a conductor, a locomotive engineer, a freight man, a passenger man, a president, or a general counsel, is unworthy of public confidence." I said, "My friend, what do you do?" "Well," he said, "outside of my public life—I am so engaged and

engrossed in public duties that it is impossible for me to take private practice, and so my entire living comes from the retainers given me by a leading Western railroad."

Now, Mr. President, Mr. SEWELL was no such man as that. When he ran for the State senate first, and again and again, he was the leading railway officer and the representative of all the railroads in his State, and he made no concealment of the fact. On the contrary, while he did not run as such, he did run asserting, "I am as worthy, if as a man and a citizen you think me so, as you, gentlemen, who are engaged in any other pursuit, avocation, or profession." And that courage elected him. It reelected him. It reelected him. It made him the leader of his party in his State. It did more. It made his State, which has always been freer from prejudice than most of the Commonwealths, choose him the leader of the delegation in six national conventions, where he was to be a great force in saying who should receive the nomination for the Presidency and Vice-Presidency, when upon that nomination and upon that platform depended the fortunes of the party to which he belonged.

When in public life he illustrated that he could be a railway man in his profession and a public man when intrusted by the people with office. To his initiative, to his skill as a business man, and to his lack of prejudice on all questions is due that legislation in the State of New Jersey by which taxation has been lifted, so far as State taxation is concerned, from the farm, from industries, and from labor, and placed upon the corporations. He perfected that system so that from the corporation and not from the farm, not from industries, not from labor, comes in the State treasury of New Jersey to-day revenues which have relieved it of State debt, revenues which pay the whole of its State taxation, revenues which take care of its educational system, and revenues which seem as though they would ultimately wipe out local taxation.

Mr. President, Senator SEWELL was in no sense a spectacular man. We who knew him best knew that he avoided crowds, he avoided applause, he never played to the gallery. He was always intent upon the one thing which he sought to accomplish. The motive power of his career was its directness, its courage, its outspokenness. When he started in the railway business he meant to be president of the railway, and he was; in finance he meant to get a fortune, and he secured it; in politics he meant to go as far as he could under the laws and the Constitution of the United States, and he did.

In this Senate his value was in the fact that he undertook nothing which he did not completely understand, and that which he did understand by the submission of the judgment of his associates to his great judgment, backed up by his wonderful information and industry, became the law of the land.

He started to redeem the State of New Jersey from its rock-ribbed condition in the Democratic party. It had been allied to that party ever since the time of Jefferson, and including Jefferson's time. In that State, which is peculiarly interstate, within itself, in the families who married and intermarried, there were traditions and legends of party associations most difficult to break, most difficult to sever; and Senator SEWELL'S success in the twenty years' struggle by which he turned that State over to his own party, and by which it looks as if it might be kept there, was due to the qualities of leadership in which he differed from most of the political leaders of my time.

Political leaders, as I have known them—and I have known almost all of them in almost every State for forty years—are jealous of youth; they are afraid of young ambition; they hesitate to acknowledge the rising genius which appears in the different localities of their State, and they frequently put a heavy hand on a young man who is marching ahead, according to their judgment, too rapidly, and may possibly interfere with or remove them from the seat of power. SEWELL never had any fear on that point. Wherever there was ambition in youth he encouraged it; wherever there was ability he recognized it; wherever a young man could be placed so that he could be most useful to the cause which SEWELL loved, and which he believed ought to triumph, it never occurred to his brave and manly heart that that boy or that young man could be a rival of himself.

There is one race, Mr. President, which has contributed more to the government of this world in modern times than any other. It bears a very small proportion to other races, almost an infinitesimal portion. Wherever you go around the world, in seeing foreign countries and foreign sights, you come upon the colonies of the British Empire, and recognize that the sun in its course around the globe never sets upon the British flag. Wherever the situation is difficult, wherever government is almost impossible, wherever the climate is most deadly, wherever the population is nearer to barbarism and savagery, and therefore almost impossible to assimilate, there you find as a governor a member of the Scotch-Irish race. The Scotch-Irish race is a very small part of the inhabitants of the British Islands, but in



the civil and military affairs of England they occupy more distinguished, more powerful, and more numerous stations than all other races combined.

That race has contributed much to the glory of the American Army and of the American Navy. Though an almost infinitesimal part of our 80,000,000 people, it has contributed several Presidents to the United States, but it never gave to our public and our business life, it never gave to our citizenship a better example or a more useful service than when it contributed the grit, the pluck, the modest courage, the ability, and the indomitable ambition of Senator WILLIAM J. SEWELL.

Mr. DRYDEN. Mr. President, as the junior Senator from New Jersey, precedent assigns to me the duty of speaking the last word in these memorial services. But the story of General SEWELL's life, to which we have just listened from the lips of those who knew and honored him, renders it unnecessary for me to speak of him at length.

It is especially fitting that this body, of which General SEWELL was a member for nearly one-fifth of his busy and eventful career, should bear testimony by appropriate action and in a public manner to his sterling character and distinguished services. These solemn observances are far more than a mere adherence to a venerated custom. They testify to a public loss. They signalize a recognition of the virtues of a useful citizen, a brave soldier, a wise statesman.

Devoid of the pomp and show which would characterize a similar event under other forms of government, their very simplicity lends to them a force and dignity appropriate to the life of the man whom we mourn and to the memory of a patriotic and self-sacrificing servant of the Republic, in whose service he was when he died.

Considering the circumstances of his foreign birth, remembering that he came to this country a mere boy in years, both fatherless and motherless, and that without friends or means, and with but scant store of education, he by the exercise of great natural abilities rose step by step from a very humble position in life to be a major-general and a Senator of the United States, the story of Senator SEWELL's advancement is remarkable and in some respects singular. Except that he was of Anglo-Irish lineage above the common, he might not inaptly have said in the slightly altered language of Bulwer Lytton:

My father died; and I, the lowly born,  
Was my own lord. Then did I seek to rise  
Out of the prison of my mean estate,  
And with such jewels as the exploring mind  
Brings from the caves of knowledge, buy my ransom  
From those twin gaoles of the daring heart—  
Low Birth and Iron Fortune.

The outbreak of the civil war found General SEWELL, then a young man, residing in New Jersey and already occupying a responsible position in railroad work. He was among the first to answer the nation's call for men to maintain its unity, and recruiting a company of his own went with it to the front as its captain. I shall not attempt to tell his story as a soldier. How he bore his part in that mighty four years' conflict which followed is splendidly attested by his early and numerous promotions, through which he rose steadily to the ranks of lieutenant-colonel, colonel, brevet brigadier-general, and finally brevet major-general. His first star was given him for "gallant and meritorious conduct in the battle of Chancellorsville," where he was severely wounded. For his brilliant services in action at Spotsylvania and Gettysburg, as well as in other great battles of the war, he was awarded a medal of honor by Congress. He was but 30 years of age when he was entitled to wear the double star of a major-general. These memorial events in his career are a part of our country's history, and their story of his bravery and patriotism and of hardships endured for the love of his country will remain there to kindle the pride of his descendants and to encourage American youth to emulate his noble deeds.

Two events subsequent to his service in the civil war illustrate, one, the strength of his martial spirit, and, the other, his capacity for command. Soon after the close of that great conflict he became identified with the National Guard of the State of New Jersey and continued in it for the remainder of his life, being its major-general commanding at his death. Occupying that position when the late war with Spain broke out he was anxious to take the field again and was, in fact, appointed and commissioned a major-general of United States Volunteers by the late President McKinley. Following that occurred a most unusual event. You will remember, Mr. President, you and those who were serving in the Senate with him at that time, how, at the urgent request of the late Vice-President Hobart and a large number of his Senatorial colleagues who believed General SEWELL's services were imperatively demanded here as a member of the Committee on Military Affairs, he with great reluctance and regret declined the

appointment and remained in the Senate at the post which, in the judgment of many of his associates, duty assigned to him.

Of his ability as a military commander I will mention but a single instance. In the year 1877 the country was profoundly agitated by labor troubles, particularly in connection with some of the railroads. In certain localities outside of my own State the fires of discontent, which had been smoldering, broke out in open conflagration. Property was destroyed and human lives sacrificed. Great lines of transportation were tied up and business was in a state of partial paralysis. The trouble reached New Jersey, and the calamity there was imminent. The conditions demanded the exercise of talent of the highest order. To meet the emergency General SEWELL was made provisional commander of the forces of the State, assembled to preserve order, and sent to Phillipsburg, N. J., the greatest point of danger. With rare courage, decision, and good judgment he opened and kept open the lines of travel throughout the territory under his command, restored peace and order, vindicated the majesty of the law, and, what is worthy of the highest praise, accomplished all this without the destruction of property and without the loss of a single life. In the language of a conservative and competent authority, the late Adjutant-General Stryker, of New Jersey, "A more skillfully planned, silently but rapidly executed, and thoroughly effective movement was never made by State troops in the history of this country."

The qualities that enabled General SEWELL to rise to high rank and command in the military service of his adopted country marked him out for conspicuous success in the ranks of peace. Returning upon the close of hostilities in the civil war to his antebellum occupation and resuming his old home in New Jersey, he soon began climbing the paths of peace to new places of honor and trust. No obstacles or difficulties could long stay his advancement. Just as he had shown a marked genius for war, so in business and in statecraft he possessed all the important qualifications that make for success. He was a man of sound judgment, quick in decision, and untiringly industrious. He had in a marked degree one other trait which is essential to permanent distinction in any vocation in life—absolute fidelity to his promise. His plighted faith was an inviolable obligation. No man could ever truthfully charge General SEWELL with lukewarmness or faint-heartedness to any friend or cause he professed to serve.

Immediately after the civil war, associating himself with the Republican party in New Jersey, he was chosen to the State senate in 1873, and continued a member of that body until elected to the Senate of the United States. His influence in shaping public affairs steadily grew, and in the councils of his party in his own State he became the acknowledged and undisputed leader. In the larger field of national politics he was also potential.

Nearly everyone now a member of this Senate knew him well as a colleague, some for a long period of time. Those who served with him will bear me witness that here, as wherever else duty called him, he discharged every obligation with scrupulous fidelity. He did not aspire to the fame of an orator. He was essentially a man of action, not words. His ambition was to be known as a faithful, untiring, and effective worker. How well and aptly he might have said, speaking the words of one of Shakespeare's kingly characters:

I profess not talking. Only this—  
Let each man do his part.

His favorite resort here was the committee room—that place where so much of the effective business of the Senate is transacted.

But if he shrank from public speaking, he was alert, active, tireless, and zealous in the performance of every duty. He was a man of strong and rugged character and when greatly moved by any cause near to his heart his whole nature became aroused and he could express himself with a directness and force clear, powerful, and convincing. Naturally a man of few words, he weighed his language carefully, but every utterance had its significance and place. I will quote one and only one sentence from the speeches of this taciturn man. It was upon an occasion when the conditions, the circumstances, the surroundings were all calculated to move him profoundly. He was about to retire from the senate of New Jersey, to sever connections which had lasted for years, and to take his seat as a Senator of the United States. As he arose at the call and amid the plaudits of his old friends, he said with much feeling:

You will not hear from me as an orator, for I am a simple man, laboring as many hours a day as any mechanic in the State, but when the nation and State are attacked and need a bosom to be bared to meet the attack, mine will be bared.

These words furnish a key to his character.

Very much of his influence with his political as well as business associates grew out of the trait of character to which I have already alluded—the absolute dependence that could be put upon his promise. His personal integrity was unimpeachable. Under

what appeared at times to be a rather cold and even haughty exterior he had a kind, sympathetic, and tender heart which moved him to do many acts of benevolence. His faithfulness to anyone who had obtained his confidence and esteem was proverbial. His friendship was as

Constant as the northern star,  
Of whose true-fixed and resting quality  
There is no fellow in the firmament.

To sum up the life and character of WILLIAM J. SEWELL, judging him by the standard of what he was and what he did, the facts lead to the inevitable conclusion that in his threefold capacity of citizen, soldier, and statesman he acquitted himself in a manner to reflect the highest credit upon the country that gave him free, ready, and largest opportunity to develop and bring into splendid fruition the varied and brilliant qualities born in him, upon the historic State that honored itself in long honoring him, and upon all who were concerned or associated with him in his noble and remarkably successful life work. His exalted quality of citizenship is attested by his achievements in the walks of peace, conspicuous among which was his evolution as a masterful developer of the great railroad system in which he started in a very humble capacity, and with which he was prominently identified nearly all his mature life. His character as a soldier, as incarnated in his deeds, proves him to have been a born commander, as full of sagacity as he was of courage, equally ready as he was resourceful, skillful, and efficient. In the Senate, first of the State he so much loved and so richly adorned and then of the nation whose Government and institutions he idolized, he bore himself from first to last as a wise, painstaking, and patriotic legislator.

There is only the assertion of a simple truth in saying, Mr. President, that the man whose very distinguished career closed upon the 27th day of December, 1901, and whose memory is the occasion of these justly deserved remembrances, was in all the relations of life, private as well as public—

Zealous, yet modest; innocent, though free;  
Patient of toil, serene amidst alarms;  
Inflexible in faith; invincible in arms.

The Senate thereupon, in accordance with the sixth resolution (at 4 o'clock and 5 minutes p. m.), adjourned, the adjournment being, under the order made this day, until Saturday, December 20, 1902, at 12 o'clock m.

#### NOMINATIONS.

*Executive nominations received by the Senate December 17, 1902.*

##### PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

Acting Second Assistant Engineer Jesse W. Glover, of California, to be a second assistant engineer, with the rank of third lieutenant, in the Revenue-Cutter Service of the United States, in place of James D. Newton, retired.

Acting Second Assistant Engineer George W. David, of Massachusetts, to be a second assistant engineer, with the rank of third lieutenant, in the Revenue-Cutter Service of the United States, to succeed Charles A. Wheeler, promoted.

George M. Kohler, of New York, to be a second assistant engineer, with the rank of third lieutenant, in the Revenue-Cutter Service of the United States, to succeed Frank G. Snyder, promoted.

Second Assistant Engineer Samuel M. Rock, to be a first assistant engineer, with the rank of second lieutenant, in the Revenue-Cutter Service of the United States, to succeed William E. Macoun, promoted.

First Assistant Engineer William E. Macoun, to be a chief engineer with the rank of first lieutenant in the Revenue-Cutter Service of the United States, in place of George M. Robinson, deceased.

##### PROMOTION IN THE MARINE CORPS.

Brig. Gen. Commandant Charles Heywood, United States Marine Corps, to be Major-General Commandant of the Marine Corps, from the 1st day of July, 1902, in accordance with the provisions of an act of Congress approved July 1, 1902.

#### WITHDRAWAL.

*Executive nomination withdrawn December 17, 1902.*

William H. Northup, of Florida, to be United States marshal for the northern district of Florida, in the place of Thomas F. McGourin, whose term will expire January 9, 1903.

#### CONFIRMATIONS.

*Executive nominations confirmed by the Senate, December 17, 1902.*

##### ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Richmond Pearson, of North Carolina, now consul at Genoa, to be envoy extraordinary and minister plenipotentiary of the United States to Persia.

#### COLLECTORS OF CUSTOMS.

Henry Whiting, of Maine, to be collector of customs for the district of Frenchmans Bay, in the State of Maine.

J. Rice Winchell, of Connecticut, to be collector of customs for the district of New Haven, in the State of Connecticut.

#### SURVEYORS OF CUSTOMS.

James H. Bolton, of Iowa, to be surveyor of customs for the port of Sioux City, in the State of Iowa.

Leander M. Shubert, of Iowa, to be surveyor of customs for the port of Council Bluffs, in the State of Iowa.

#### RECEIVERS OF PUBLIC MONEYS.

R. B. Kennedy, of Louisiana, to be receiver of public moneys at New Orleans, La.

Edward E. Garrett, of Idaho, to be receiver of public moneys at Boise, Idaho.

William A. Hodgman, of Idaho, to be receiver of public moneys at Hailey, Idaho.

E. D. Owens, of Cozad, Nebr., to be receiver of public moneys at North Platte, Nebr.

#### SURVEYOR-GENERAL.

Erastus A. Williams, of North Dakota, to be surveyor-general of North Dakota.

#### APPOINTMENT IN THE MARINE-HOSPITAL SERVICE.

William C. Rucker, of Wisconsin, to be an assistant surgeon in the Public Health and Marine-Hospital Service of the United States.

#### POSTMASTERS.

##### FLORIDA.

John S. Alley, to be postmaster at Chipley, in the county of Washington and State of Florida.

Charles W. Lewis, to be postmaster at Fernandina, in the county of Nassau and State of Florida.

##### GEORGIA.

Frank P. Mitchell, to be postmaster at Americus, in the county of Sumter and State of Georgia.

Terrell C. Peterson, to be postmaster at Fort Gaines, in the county of Clay and State of Georgia.

##### IOWA.

Niles L. Brownell, to be postmaster at Pomeroy, in the county of Calhoun and State of Iowa.

Herbert W. Clark, to be postmaster at Tabor, in the county of Fremont and State of Iowa.

##### MASSACHUSETTS.

Charles E. Cook, to be postmaster at Uxbridge, in the county of Worcester and State of Massachusetts.

Ella M. Ward, to be postmaster at Millers Falls, in the county of Franklin and State of Massachusetts.

##### PENNSYLVANIA.

J. Wersler Thomson, to be postmaster at Phoenixville, in the county of Chester and State of Pennsylvania.

Edward H. Graves, to be postmaster at Coatesville, in the county of Chester and State of Pennsylvania.

##### SOUTH CAROLINA.

Frank M. Emanuel, to be postmaster at Bennettsville, in the county of Marlboro and State of South Carolina.

C. J. Shannon, to be postmaster at Camden, in the county of Kershaw and State of South Carolina.

##### VERMONT.

Barney Cannon, jr., to be postmaster at Bellows Falls, in the county of Windham and State of Vermont.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 17, 1902.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

TIMBER AND STONE FOR RAILROAD PURPOSES IN THE INDIAN TERRITORY.

Mr. DOUGHERTY. I ask unanimous consent for the present consideration of the bill which I send to the desk.

The Clerk read as follows:

*Be it enacted, etc., That the act entitled "An act to provide for the use of timber and stone for domestic and industrial purposes in the Indian Territory," approved June 6, 1900, be amended so as to read as follows:*

*"That the Secretary of the Interior is authorized to prescribe rules and regulations for the procurement of timber and stone for domestic and industrial purposes, including the construction, maintenance, and repairs of railroads and other highways, from lands belonging to either of the Five Civilized Tribes, and to fix the full value thereof to be paid therefor and collect the same for the benefit of said tribes: Provided, however, That nothing herein contained shall be construed to prevent allottees from disposing of timber and stone on their allotments, as provided in section 16 of an act entitled 'An act for the protection of the people of the Indian Territory, and*



for other purposes, approved 1898, from and after the allotment by the Commission to the Five Civilized Tribes.

"SEC. 2. That every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys, or procures to be wantonly destroyed, any timber standing upon the lands of either of said tribes contrary to the provisions of this act and the regulations prescribed thereunder by the Secretary of the Interior, shall pay a fine of not more than \$500, or be imprisoned not more than twelve months, or both, in the discretion of the court trying the same."

The following amendments reported by the Committee on Indian Affairs were read:

After the word "highways," in line 11 of section 1, insert the following: "to be used only in the Indian Territory, or upon any railroad outside of the said Territory which is part of any continuous line of railroad extending into the said Territory."

After the word "approved," in line 5, section 1, page 2, insert "June 28."

There being no objection, the House proceeded to the consideration of the bill.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. DOUGHERTY, a motion to reconsider the vote by which the bill was passed was laid on the table.

STATUES OF CHARLES CARROLL AND JOHN HANSON.

The SPEAKER. Without objection, the Chair will lay before the House a communication from the governor of the State of Maryland, which the Clerk will read.

The Clerk read as follows:

EXECUTIVE DEPARTMENT,  
Annapolis, Md., December 15, 1902.

To the Senate and House of Representatives  
of the United States, Washington, D. C.

GENTLEMEN: I have the honor to inform you that in acceptance of the invitation contained in section 1814 of the Revised Statutes of the United States, the general assembly of Maryland, by chapter 311 of the Acts of 1898, made an appropriation to procure statues of Charles Carroll of Carrollton, one of the signers of the Declaration of Independence, and John Hanson, President of the Continental Congress of 1781 and 1782, to be placed in Statuary Hall, in the Capitol, at Washington, D. C.

By authority of the act of the general assembly of Maryland, the governor appointed John Lee Carroll, Douglas H. Thomas, Thomas J. Shryock, Fabian Franklin, and Richard K. Cross to constitute a commission to procure and have the statues erected.

I am informed by the commissioners that the statues were made by Mr. Richard E. Brooks, of Boston; that they are completed and have been placed in position, and are now ready to be presented to Congress.

As governor of the State of Maryland, therefore, I have the honor to present to the Government of the United States the statues of the distinguished statesmen named.

Very respectfully,

JOHN WALTER SMITH,  
Governor of Maryland.

Mr. PEARRE. Mr. Speaker, in connection with the communication just read, I ask unanimous consent for the present consideration of the resolution which I ask the Clerk to read.

The Clerk read as follows:

Resolved, That the exercises appropriate to the reception and acceptance from the State of Maryland of the statues of Charles Carroll of Carrollton and John Hanson, erected in Statuary Hall, in the Capitol, be made the special order for Saturday, January 31, 1903, at 3 o'clock p. m.

There being no objection, the resolution was considered and adopted.

On motion of Mr. PEARRE, a motion to reconsider the vote by which the resolution was adopted was laid on the table.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 227. Joint resolution to pay the officers and employees of the Senate and House of Representatives their respective salaries for the month of December, 1902, on the 18th day of said month.

The message also announced that the Senate had passed bill and joint resolution of the following titles; in which the concurrence of the House was requested:

S. 6461. An act providing for an additional district judge in the district of Minnesota; and

S. R. 131. Joint resolution to purchase a bronze portrait bust of the late President McKinley from Mrs. Emma Cadwallader-Guild.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 4825) to provide for a union railroad station in the District of Columbia, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GALLINGER, Mr. DILLINGHAM, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 4850) to increase the pensions of those who have lost limbs in the military or naval service of the United States, or are totally disabled in the same, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GALLINGER, Mr. McCUMBER, and Mr. TALIAFERRO as the conferees on the part of the Senate.

#### SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6461. An act providing for an additional district judge in the district of Minnesota—to the Committee on the Judiciary.

S. R. 131. Joint resolution to purchase a bronze portrait bust of the late President McKinley from Mrs. Emma Cadwallader-Guild—to the Committee on the Library.

#### ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolution of the following titles; when the Speaker signed the same:

H. R. 15140. An act providing that the circuit court of appeals of the fifth judicial circuit of the United States shall hold at least one term of said court annually in the city of Fort Worth, in the State of Texas, on the first Monday in November in each year; and

H. J. Res. 227. Joint resolution to pay the officers and employees of the Senate and House of Representatives their respective salaries for the month of December, 1902, on the 18th day of said month.

#### PENSION INCREASE.

The SPEAKER laid before the House the bill (S. 4850) to increase pensions of those who have lost limbs in the military or naval service of the United States or are totally disabled in the same, with House amendments disagreed to by the Senate.

The House amendments were read.

Mr. SULLOWAY. Mr. Speaker, I move that the House insist upon its amendments and agree to the conference asked for by the Senate.

The motion was agreed to; and the Speaker announced as conferees on the part of the House Mr. SULLOWAY, Mr. CALDERHEAD, and Mr. MIERS of Indiana.

#### LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. BINGHAM. Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16021, the legislative, executive, and judicial appropriation bill.

The motion was agreed to; and accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. MONDELL in the chair.

Mr. CLARK. Mr. Chairman, yesterday I raised the point of order as to the last sentence on page 80, line 12 to 18, inclusive. After investigating the matter as thoroughly as I could, I have come to the conclusion that the point of order is not well taken. I therefore ask unanimous consent to withdraw it, if that is the proper course to pursue.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to vacate the action of the committee on the point of order named by him on yesterday. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

For per diem allowance for special agents, classification division, when actually traveling on business of the Post-Office Department, at a rate to be fixed by the Postmaster-General, not exceeding \$4, and for other actual and necessary traveling expenses arising in connection with the business of the classification division, \$7,000.

Mr. MADDOX. Mr. Chairman, I should like to inquire of the gentleman from Pennsylvania why it is that the salary of the Fourth Assistant Postmaster-General is increased? It seems to me it is a well-known fact that the duties of that office are being rapidly decreased.

Mr. BINGHAM. Primarily the increase was recommended by the Postmaster-General. He believed that the heads of the respective divisions, his assistants, should receive an increased compensation. He recommended an increase of \$1,000 in the salary of the First Assistant and of \$500 each in the salaries of the Second, Third, and Fourth Assistants. As the work on the part of each of these gentlemen embodies about the same number of hours in labor, being somewhat on a par, your committee did not feel that it could discriminate in the matter of salaries in a continuance of one under current law and a lifting of the other three.

Therefore, without going into the details of the work and recognizing that they all work and give full service, your committee felt that it had better accept the recommendation of the Postmaster-General at this time and not increase one or two, because it would be only a question of a year when the others would come in and ask for an increase. The committee therefore gave the First, Second, Third, and Fourth Assistants each \$500. That was the reason for the action of your committee.

Mr. MADDOX. Is it not true that the salaries of these gentlemen are fixed by law?

Mr. BINGHAM. By existing law at \$4,000. I will state that this increase is subject to the gentleman's point of order, if he insists upon it.

Mr. MADDUX. I wish to ask the gentleman if it is not true that the duties of the office of the Fourth Assistant are decreasing all the time, every day, every hour, as the rural deliveries are started.

Mr. BINGHAM. I do not think there is any service in the Post-Office Department that is decreasing.

Mr. MADDUX. Not the Fourth Assistant's? Surely the gentleman must be mistaken about that. How many thousand offices have been abolished?

Mr. BINGHAM. I would state that he has the entire inspection of the service of the Post-Office Department under his control, not only the matter of the fourth-class post-offices, but the general inspection of the service of the postal administration.

Mr. MADDUX. Surely my friend will not insist that the Fourth Assistant Postmaster-General has under his control the inspection of the rural delivery. That is under the First Assistant Postmaster-General. All this business is being taken away from him gradually.

Mr. BINGHAM. The rural free delivery is under the First Assistant.

Mr. MADDUX. Yes, and the inspectors are under him.

Mr. BINGHAM. Yes, but I want to say this about the rural free delivery: It is just now for the first time in detail in this bill. We are endeavoring to organize that service, notwithstanding the increase that will doubtless be carried in the Post-Office bill for the extension of that service. Your committee hopes there will be such an organization in what might be called the headquarters division of administration; that there will be a reduction in the Post-Office Department in connection with the expense of rural free delivery. But, primarily, I repeat, we followed the recommendation of the Postmaster-General for these increases for all of his assistants.

Mr. MADDUX. What I wanted to call your attention to was this: It is apparent to everybody—everybody knows—that the duties devolving upon the office of the Fourth Assistant Postmaster-General have decreased largely within the last twelve months, you might say, or within two years.

Mr. BINGHAM. In what respect?

Mr. MADDUX. Why, by the abolishing of fourth-class post-offices in the country.

Mr. MCCLEARY. Oh, no.

Mr. MADDUX. Not all of them, but a great many of them. Where a rural free-delivery route is established, in nearly every instance three or four fourth-class post-offices go out of existence.

Mr. BINGHAM. I do not think the employment of the body of fourth-class postmasters took up much of the time of that department. I think his real body of work consists in his investigations and the superintendence of the whole service.

Mr. HEMENWAY. I will suggest to the gentleman that that work is a very limited part of the work. Nearly all of those appointments are made upon the recommendation of members of Congress for these smaller post-offices, and all there is to do is to make out the appointments. That is a very limited part of the work, and it would not be fair to increase the other assistants of the Postmaster-General and not increase the Fourth Assistant.

Mr. MADDUX. Suppose we abolish all the fourth-class post-offices in the country, then what is your Fourth Assistant going to do?

Mr. HEMENWAY. He has charge of the inspection service.

Mr. MADDUX. Of what offices, the Presidential offices?

Mr. HEMENWAY. I think of all the offices.

Mr. MADDUX. Not for the rural delivery. He has nothing to do with that.

Mr. HEMENWAY. I am not familiar with all his duties, but he has numerous duties to perform, and the appointment of postmasters is only a limited part of the work.

Mr. BINGHAM. The compensation of fourth-class postmasters is based upon the certification of the Auditor in the adjustment of their accounts.

Mr. HEMENWAY. The Fourth Assistant Postmaster-General has supervision of all the inspectors except the rural free-delivery service.

Mr. MADDUX. But if all the offices are abolished, then we will have no need of these inspectors. That is where the difficulty is.

Mr. HEMENWAY. A very limited number of offices, as far as business is concerned, are to be reduced by reason of the rural free-delivery service. All the offices in the towns of any size are continued, and the inspection service is a great service, and it must reach out to all of those offices.

Mr. BINGHAM. If the gentleman will turn to page 266 of the Congressional Directory, he will find there a statement concerning the Fourth Assistant Postmaster-General and the details of his line of work. If the gentleman desires, I will read it. But I will say to the gentleman primarily, accepting the recommendation of the Postmaster-General, who is familiar with the whole question,

we determined to make this increase, believing it was a reasonable and fair increase. If the gentleman thinks otherwise, he has his rights under the rules on a point of order.

Mr. MADDUX. I could have exercised my rights and made the point of order on all these gentlemen, but I am trying to find out, if I can, why the salary of the Fourth Assistant Postmaster-General should be increased.

Mr. BINGHAM. It will take but two minutes, if the gentleman desires it, to read to him a detailed statement of the work of that office, from the Congressional Directory.

Mr. BOWIE. May I ask the gentleman from Pennsylvania a question?

Mr. BINGHAM. If the gentleman from Georgia will yield.

Mr. BOWIE. It is on this particular point.

The CHAIRMAN. Does the gentleman from Georgia yield?

Mr. MADDUX. Yes.

Mr. BOWIE. I will ask the gentleman from Pennsylvania if it is not true that new fourth-class post-offices are being created nearly or quite as fast as others are being abolished by the rural free-delivery service? In other words, is it not true that the rural free-delivery service extends over only a small part of the country, and that in other parts of the country there is a continual increase in the number of these small offices?

Mr. BINGHAM. Without doubt. The establishment of fourth-class post-offices continue—

Mr. BOWIE. And if that does not equal approximately the decrease caused by the establishment of rural free-delivery routes?

Mr. BINGHAM. That still runs on, as the new offices are asked for by the different communities.

Mr. BOWIE. And if it is not true as a rule that the rural free-delivery routes are established only in what you might call closely settled districts?

Mr. CANNON. If the gentleman will allow me, I think I can answer the question. I have the statement right here. I quote from the annual report of the Postmaster-General for the fiscal year ending June 30, 1902, page 24:

ESTABLISHMENT AND DISCONTINUANCE OF FOURTH-CLASS POST-OFFICES.

There were 3,038 post-offices established during the year and 4,059 discontinued. The principal cause of the discontinuance of so many post-offices was the extension of the rural free-delivery service and the establishment of rural free-delivery stations. The establishment of this service, of course, dispenses with fourth-class post-offices as does the extension of the city-delivery service to towns adjacent to large Presidential offices. During the year there were 1,906 post-offices discontinued owing to the establishment and extension of this rural service, the aggregate of the salaries of postmasters thereat being \$116,897.

Now, then, my recollection is, and I can verify it in a moment, that there are about 80,000—between 70,000 and 80,000—post-offices, perhaps. So that there have been almost as many increases as there are decreases.

Mr. BOWIE. That was the point I was trying to bring out.

Mr. CANNON. Here is a great mountain of post-offices, any number, still in the service, and I have no doubt that they will not decrease greatly.

Mr. BOWIE. That was the point I was trying to make.

Mr. BINGHAM. I trust the gentleman will not insist on his point of order.

Mr. MADDUX. I will withdraw it.

The Clerk read as follows:

For postage stamps for correspondence addressed abroad which is not exempt from postage under article 8 of the Paris convention of the Universal Postal Union, \$550.

Mr. HEMENWAY. Mr. Chairman, I ask unanimous consent to return to page 58 of the bill, and offer the following amendment.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to return to page 58 of the bill for the purpose of offering an amendment. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Line 21, page 58, after the words "confidential clerk," strike out "one thousand two hundred" and insert "eighteen hundred."

Mr. BINGHAM. I have no objection, Mr. Chairman.

The question was taken, and the amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to return to page 56, the last line on the page, for the purpose of striking out "\$1,200," the salary given to the assistant in laboratory, and making it "\$1,800," and I could explain the reason why I desire to move that amendment in a moment.

Mr. BINGHAM. I object to returning to that paragraph.

Mr. STEPHENS of Texas. Will you hear an explanation?

Mr. BINGHAM. With pleasure, and I withhold the objection.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to return to page 56 for the purpose of offering an amendment. Is there objection?

Mr. BINGHAM. The gentleman desires to make an explanation.

Mr. STEPHENS of Texas. The reason for this request, Mr. Chairman, is this: The assayer of the Treasury Department here



in Washington receives \$2,200 per annum. He resigned in May this year. No one has been appointed to fill that position; but the assistant is filling the positions formerly filled by both these men. He is a very competent man and an excellent assayer. He has been in that position for twenty years and is only getting \$100 a month, or \$1,200 per annum. The assistants in some of the other United States assay offices get from \$1,800 to \$2,000 a year. It is unfair that this man should be held down to \$1,200 when other men, performing the same service, get \$1,800 or \$2,000. The duties are very onerous, he is performing them well, and he deserves to have his salary raised from \$1,200 to \$1,800 because he is filling the position held by Professor Whitehead, the chief assayer, who has resigned. He could get in any good private assay office in this country twice the wages that he is now receiving.

Mr. BINGHAM. There is nothing in the Book of Estimates recommending promotion or an increase of his compensation.

Mr. STEPHENS of Texas. That is correct; but when the matter is called to the attention of the House and it is shown that one of the employees of the Government is doing double duty, I think the House should see that he is given a fair compensation.

Mr. HEMENWAY. The question is continually before his chief, and certainly the chief should submit an item in the Book of Estimates if he considers him entitled to more compensation.

Mr. STEPHENS of Texas. The chief ought not to be permitted to keep this man doing the duty of two men; and if he has to do double duty, he ought to have double pay.

Mr. HEMENWAY. It is absolutely within the power of the head man to give him the promotion to the place that is vacant.

Mr. STEPHENS of Texas. This man has been performing double duty, and he ought to have more compensation.

Mr. BINGHAM. I decline to return to that page.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to return to page 56. Is there objection?

Mr. BINGHAM. I object to returning to the page.

The CHAIRMAN. The gentleman from Pennsylvania objects. Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word, for the purpose of making an inquiry purely. I would like to ask the gentleman from Pennsylvania [Mr. BINGHAM] what is meant in the appropriation in this bill for items similar to the one on page 131, that we have just read: "For purchase, exchange, and keeping of horses?"

Mr. HEMENWAY. If the gentleman will permit me, these lines have been read, and other questions have been discussed; and I think he had better delay moving his amendment until we read the next paragraph.

Mr. GAINES of Tennessee. I simply asked the question for the purpose of obtaining information.

Mr. HEMENWAY. This paragraph is not open now for discussion, as we have passed it. Of course, it is not in order to return to that, but the gentleman can make his motion on the next paragraph.

Mr. GAINES of Tennessee. The Chair will have to decide that. I thought it was to be read down to where it came to the end of the paragraph. I hope the gentleman can at least answer a question which is purely one of inquiry.

Mr. HEMENWAY. We want to pass this paragraph, and then the gentleman can make his inquiry on the next paragraph. The gentleman can then make his motion.

The Clerk, proceeding with the reading of the bill, read as follows:

#### DEPARTMENT OF JUSTICE.

Office of the Attorney-General: For compensation of the Attorney-General, \$3,000; Solicitor-General, \$7,500; four Assistant Attorneys-General, at \$5,000 each; Assistant Attorney-General of the Post-Office Department, \$4,500; solicitor of internal revenue, \$4,500; solicitor for the Department of State, \$4,500; two assistant attorneys, at \$3,000 each; four assistant attorneys, at \$2,500 each; assistant attorney, \$2,000; assistant attorney, in charge of dockets, \$2,500; law clerk and examiner of titles, \$2,700; chief clerk and ex officio superintendent of the building, \$2,500; private secretary to the Attorney-General, \$2,500; stenographer to the Solicitor-General, \$1,800; two stenographic clerks, at \$1,600 each; one law clerk, \$2,500; two law clerks, at \$2,000 each; three clerks of class 4; attorney in charge of pardons, \$2,400; additional for disbursing clerk, \$500; appointment clerk, \$2,000; six clerks of class 3; three clerks of class 2; six clerks of class 1; telegraph operator and stenographer, \$1,800; nine copyists; one chief messenger, \$1,000; eight assistant messengers; four laborers; three watchmen; engineer, \$1,200; two conductors of the elevator, at \$720 each; eight charwomen; superintendent of building, \$250; and three firemen; Division of Accounts: Chief of division of accounts, \$2,500; four clerks of class 4; five clerks of class 3; six clerks of class 2; six clerks of class 1; two copyists; one packer, \$840; in all, \$183,570.

Mr. BARTLETT. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Amend, by adding on page 134, at the end of line 18, the following:

"For the purpose of enforcing the antitrust laws of the United States, and to enable the Attorney-General of the United States to prosecute suits and legal proceedings against persons or corporations who shall violate the antitrust laws of the United States now in force, or that may hereafter be enacted, the sum of \$250,000, or so much thereof as may, in the judgment of the Attorney-General, be necessary; to be expended under the direction of the Attorney-General, and he is hereby directed to proceed against any and all persons or corporations who may have violated or may violate any of the provisions of the antitrust laws of the United States."

Mr. CANNON. Mr. Chairman, I will ask to have that amendment reported again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. BINGHAM. Mr. Chairman, I will make no point of order against that proposition.

Mr. BARTLETT. Mr. Chairman, I do not think this proposition is subject to a point of order. I have but little to say with reference to the amendment. It is a question in which the people are deeply concerned, and which has attracted the attention of the President of the United States, so much so that in his public speeches he has called the attention of the people to the trusts, and in his message to Congress at the opening of this session he recommended that a special appropriation for the purpose of enforcing the antitrust laws of the United States should be made by Congress, to be expended under the direction of the Attorney-General. The Appropriations Committee has not undertaken to comply, so far as I am aware, with that recommendation of the President.

The Attorney-General, in a speech delivered at Pittsburg on October 14 last, before the Chamber of Commerce, said to the American people that the law now on the statute book had been sufficient to enable the Government to prosecute these violators of the law—the trusts, and combinations in the shape of monopolies—and that if the present law is not effective Congress can, under its constitutional power, amend and extend the existing law so as to remedy any defects and effectively regulate national and foreign commerce so as to prevent the stifling of competition, and to destroy monopolies.

Therefore I have thought it proper to offer this amendment giving the Attorney-General this special fund to proceed against these violators of the law, and directing him to institute legal proceedings against them.

Mr. OVERSTREET. Mr. Chairman, I do not rise to oppose the proposed amendment, but to call the attention of the committee to the fact that if such a proposition is deemed wise, the amendment should be perfected. Measures involving the same principle are now in the form of bills before the Judiciary Committee of the House and are now under fair and proper consideration. I do not care to raise the point of order against this amendment, although I think it is clearly subject to such a point. The committee should know, however, that this amendment will not be in legal form when it applies to the execution of antitrust laws. There is no such law known to the statutes as the "antitrust law."

There is a law of July 2, 1890, which I presume is intended to be referred to. There are also certain statutes under the internal-revenue laws which should be referred to in the same way, and rather than let the measure go in this incomplete condition the gentleman ought to agree to some change of language to perfect the amendment.

A bill has been sent for which contains the proper language, and I submit to the gentleman that he should consent to the perfection of this amendment.

Mr. BARTLETT. I will consent to the perfection of this measure or to the doing of anything which will carry out the purpose of prosecuting the violators of these laws.

Mr. OVERSTREET. Oh, Mr. Chairman, the campaign is over, and it is needless for the gentleman to spring any such language as that. If we are to have this legislation, it should be done sensibly and not in the spirit manifested by the gentleman from Georgia. I raise the inquiry whether it would not be better to let this measure go over until the committee which has it now under consideration shall report and perfect it in the language in which it should be placed upon the statute books.

I was about to call the attention of the committee to the fact that the laws themselves should be specifically mentioned and identified. The law of July 2, 1890, and the internal-revenue laws—the sections of the statutes I do not recollect—should be specifically referred to. I ask the gentleman from Georgia if it would not be better to withdraw his proposed amendment in order to perfect it. I may say—and I speak as a member of the committee which now has under consideration at least two bills involving this identical principle—that there has been no disposition to delay the consideration of either one of these measures. I think it is better that it should be taken up in the usual and proper way.

Mr. UNDERWOOD. May I ask the gentleman a question?

Mr. OVERSTREET. Certainly.

Mr. UNDERWOOD. Has not the Attorney-General in various Administrations said repeatedly that the law of 1890, known as the Sherman law, could not be enforced because Congress had never provided him with the funds with which to carry out the provisions of the law?

Mr. OVERSTREET. I am not familiar with any such declarations made, but I have no disposition to dispute the fact.



Mr. UNDERWOOD. I think the Attorney-General has once so reported to Congress. I understand that the disposition here is not to create a new statute, but to provide the Attorney-General with the necessary funds by which he can enforce the law now on the statute books. If that is the case, it seems to me it is purely germane to the bill at this time.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. HEPBURN. Mr. Chairman, I offer the following as a substitute for the amendment offered by the gentleman from Georgia.

The Clerk read as follows:

That for the enforcement of the provisions of the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and sections 73, 74, 75, and 76 of the act entitled "An act to reduce taxation, to provide revenue for the Government, and other purposes," approved August 27, 1894, the sum of \$250,000 is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to be expended under the direction of the Attorney-General in the employment of special counsel and agents of the Department of Justice to conduct proceedings, suits, and prosecutions under said acts in the courts of the United States: *Provided*, That no person shall be prosecuted or be subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in any proceeding, suit, or prosecution under said acts: *Provided further*, That no person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying.

Mr. HEPBURN. Mr. Chairman, the proposition just read has been carefully prepared. It has been before the Committee on the Judiciary. I do not know that any action has been had upon it by that committee, but I am confident that it meets the approval of certain gentlemen on that committee. In my mind it is preferable to the motion of the gentleman from Georgia, and particularly in that it identifies the law referred to and gives an added probability of conviction, for without the language here used we might have difficulty in the way of prosecutions. Therefore I very much prefer the substitute just read.

Mr. CANNON. Mr. Chairman, I want to say that I am familiar with the proposed amendment offered by the gentleman from Iowa; in fact, it was offered by him, I believe, as a bill and referred to the Committee on the Judiciary. My attention was drawn to it some weeks ago, and it seemed to me that it is an apt provision. I may add that I had in mind, in the event that no other legislation should be had before the reporting of the sundry civil bill—which would ordinarily be the bill to carry such an appropriation as this—to report, if my committee should agree with me, a provision similar to that now moved by the gentleman from Iowa.

But the gentleman from Georgia moved his amendment; no point of order was made upon it—the point, I think, being properly withheld—and that proposition is now before us for consideration. For one I am quite willing to settle it here, so far as we can, and would suggest to the gentleman from Iowa that he increase the sum from \$250,000, as proposed in the substitute he moves, to \$500,000, and that he make the appropriation immediately available. Without such a provision the appropriation would not be available until July 1.

Mr. HEPBURN. Mr. Chairman, I move to strike out in my amendment "\$250,000" and insert "\$500,000," and to add the words "to be immediately available."

Now, Mr. Chairman, I believe there is very much of importance in this proposed legislation. The whole country has been agitated by the question, How shall we deal with the trusts and the combinations? Almost all associations of men that have met during the last six months have discussed this question. All the newspapers are discussing it. In my humble judgment, what we need is not legislation, but it is the enforcement of the laws now upon the statute books. There are difficulties in the way of such enforcement. Our system of prosecuting malefactors is perhaps not the most perfect one. Every gentleman will admit that the public prosecutors in Federal courts are not, as a rule, at the head of the bar to which they belong. They are always or nearly always inferior to some of their associates. The corporations secure the very best of talent—not one man, but they seek out and secure the services of a number of the most eminent in the legal profession. Not only that, they have the means of marshaling and procuring testimony, as the public prosecutor can not have.

There is no fund of which I have knowledge that can be used for the purpose of securing testimony; and our prosecutions have failed, not because the provisions of law were not ample, but because the facts needed to secure conviction could not be presented to the attention of the court. This proposition will obviate these difficulties.

I know that gentlemen will say that the Attorney-General now has the power to procure assistance for the district attorneys. But those men, if employed, will always be subordinate and inferior in authority in the prosecutions to the district attorneys. I believe the Attorney-General ought to have the power to go where he pleases and get whom he may, to secure the very best

of legal talent, and then reenforce those temporary officers by placing at their disposal the means of securing the necessary proof.

I want to call the attention of the Committee of the Whole to this fact: For years we had a statute which prohibited the granting of rebates by common carriers to shippers; for years it was believed that five great firms in the city of Chicago had been constantly violating that law in the receipt of thousands, and hundreds of thousands, and millions of dollars in the way of rebates upon their trade. The courts were absolutely powerless in the matter because the facts could not be presented. But about a year ago some of the carriers got to quarreling among themselves, and through these contentions the facts became public; and then, using the law that had been upon the statute books for fifteen years, but inoperative, the Interstate Commerce Commission were able to successfully prosecute suits that put an end to those grievances. It was not because the law was insufficient that these long delays in justice had been suffered; it was because of the want of funds to secure those facts absolutely necessary in order that the courts may act. Laws do not enforce themselves. The courts do not operate except as they are moved upon by the ordinary methods of procedure. And we would not have it otherwise. Now, this substitute meets the want from which we have suffered so long.

Mr. BARTLETT. Mr. Chairman, I do not think it lies in the mouth of the gentleman from Indiana [Mr. OVERSTREET] to suggest that the elections are now over, and that this amendment is offered here now by me for political effect only. The committee of which the gentleman from Indiana is a distinguished and honored member has not for a number of years reported any bill or done anything else to relieve the country from the exactions of the trusts, not even when the President of the United States, in his message of December of last year as well as the one delivered to the House at the beginning of the present session, has recommended that some resolute and practical legislation should be enacted to correct the evil of the trusts. And I say that the gentleman does not stand in a position to complain when other members of this House see fit to propose that funds be put at the disposal of the Attorney-General with which to prosecute the trusts of this country. Therefore the criticism that the gentleman from Indiana has made upon the amendment offered by myself is not just or proper.

I offered this because this bill in which it is now proposed to provide funds for the Department of Justice did not contain any sum whatever for that purpose. I offered this because the President of the United States in his message to Congress on the 1st of December, at the opening of this session, recommended that Congress give to the Attorney-General a sufficient special appropriation to enforce the law against trusts and combinations. I offered this because it did not appear that any member of the majority intended to do anything to aid the Attorney-General, or do anything toward prosecuting the trusts of this country, or to carry out the recommendation of the President.

Mr. CANNON. Will the gentleman allow me to interrupt him right there?

The CHAIRMAN. Does the gentleman yield?

Mr. BARTLETT. Certainly.

Mr. CANNON. The sundry civil bill, which is yet to be reported, carries appropriations for the Department of Justice for the enforcement of the law. This bill never has carried them and I am perfectly content that the gentleman should offer his amendment here, but we are not to be chargeable with default until the bill that ordinarily carries such appropriations is reported. Therefore, as the gentleman seems to be anxious that the bill which does not carry such appropriations should carry this amendment, this side of the House interposes no objection, although we are not subject to criticism because this bill did not carry it. It never did carry any appropriation for this purpose.

Mr. BARTLETT. The gentleman from Illinois misunderstood me. I said the gentleman from Indiana, before whose committee these antitrust bills have been for years, has not reported any except the one which was reported just before election two years ago, and passed with the knowledge that it would sleep the sleep of eternal death in the Senate of the United States. [Applause on the Democratic side.] That has never been heard of since. The Republican party, Mr. Chairman, has been masquerading sufficiently before the country on the subject of their opposition to the trusts, and for one I want to put this amendment before the House that it may be voted on.

Now, I accept the substitute offered by the gentleman from Iowa, who I know is always in earnest about legislation that he undertakes to pass through this House. I know that he sympathizes with the effort on the part of the Attorney-General or on the part of the people to rid themselves of the oppression of the trusts, but I would suggest to him that he offer that as an amendment to mine instead of as a substitute, and leave in that



part of my amendment contained in the latter three lines, which provides that "the Attorney-General is hereby directed to proceed against any and all persons or corporations who may have violated any of the laws" which the gentleman has named in his proposed substitute. I suggest to the gentleman that if he will offer his as an amendment to mine and leave that provision in I would be glad to accept it.

Mr. HEPBURN. I would be willing to accept that if it did not contain a reflection on the officer. I do not believe it to be necessary to direct the Attorney-General to perform his duties. He is sworn to do that. The statute imposes the duty upon him, and I think he has shown a disposition to perform it. Now, why should we in this way put this affront upon him?

Mr. BARTLETT. I want to say to the gentleman from Iowa it is far from my purpose to make any reflection upon the Attorney-General of the United States. I think that that officer, in his speech at Pittsburg before the Chamber of Commerce, which I have before me and which I would like to put into the RECORD, that the country might have it freely distributed, stated what was the correct law on the subject and the condition of affairs that existed and the right of the Government to now proceed against these violations of the law; and I have a high regard of his ability and believe him to be an honest and capable official.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent that I may have one minute more.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that he may extend his remarks one minute. Is there objection?

There was no objection.

Mr. BARTLETT. Mr. Chairman, inasmuch as it appears, as suggested by the gentleman from Iowa, for whose opinion I have the greatest respect, that this might be a reflection upon the Attorney-General, and not intending to do any such thing, I am content to accept the substitute of the gentleman from Iowa. All I want is legislation on the subject and to give the Attorney-General means to prosecute these violations of the law. [Applause.]

By permission of the House, I append as part of my remarks the speech of the Attorney-General on the subject of the power of Congress to regulate, control, and defeat trusts, combinations, and monopolies. It is a most able and learned exposition of the law on this subject, and shows that if he uses the powers he possesses under the law the evils of the trust can and will be in a great measure remedied and eradicated.

PITTSBURG, PA., October 14, 1902.

Attorney-General Knox addressed the members of the Chamber of Commerce at the Hotel Schenley here to-night. There were 700 guests present. The subject of his address was "The commerce clause of the Constitution and the trusts."

The Attorney-General said:

"The people, by common consent, have denominated the great industrial and other corporations now controlling many branches of commercial business trusts. The technical accuracy of the term is unimportant, but indeed it is much more apt than might be supposed, when it is recalled that the essential difference between the old industrial trusts and the great corporations owning and controlling subsidiary ones is that in respect to the former the shares of independent corporations agreeing to act in harmony were lodged with a trustee who received the separate earnings and distributed them among the holders of trust certificates, while as to the latter, a corporation is created to take over the title to the stock or properties of the constituent companies and issue its own shares as the evidence of interest in the combination. The corporation owner of corporations invokes specific legal authority from the legislature of the State under which it is created."

"The President, in his first message to Congress, said:

"There is a widespread, settled conviction in the minds of the American people that these trusts are, in many of their features and tendencies, hurtful to the general welfare. This springs from no spirit of envy or uncharitableness nor lack of pride in the great industrial achievements that have placed the country at the head of the nations struggling for commercial supremacy. It does not rest upon a lack of intelligent appreciation of the necessity of meeting changing and changed conditions of trade with new methods nor upon ignorance of the fact that combination of capital and effort to accomplish great things are necessary when the world's progress is demanding that great things be done. It is bottomed upon sincere conviction that combination and concentration, while not to be prohibited, are to be controlled, and in my judgment this conviction is right."

NOT APPALLED BY SIZE.

"These great combinations, now numbering thousands, are the instrumentalities of modern commercial activity. Their number and size alone appeal no healthy American. We are accustomed to large things and to do them in a large way. We are accustomed to speak with a justifiable pride of our great institutions and what we have fairly accomplished through them. No right-thinking man desires to impair the efficiency of the great corporations as instrumentalities of national commercial development. Because they are great and prosperous is no sufficient reason for their destruction. If that greatness and prosperity are not the result of the defiance of the natural rights or recorded will of the people, there is no just cause of complaint."

"That there are evils and abuses in trust promotions, purposes, organizations, methods, management, and effects none question except those who have profited by those evils. That all or any of these abuses are to be found in every large organization called a trust no one would assert who valued his reputation for sane judgment."

"The conspicuous noxious features of trusts existent and possible are these: Overcapitalization, lack of publicity of operation, discrimination in prices to destroy competition, insufficient personal responsibility of officers and directors for corporate management, tendency to monopoly and lack of apprecia-

tion in their management of their relations to the people, for whose benefit they are permitted to exist."

"Overcapitalization is the chief of these and the source from which the minor ones flow. It is the possibility of overcapitalization that furnishes the temptations and opportunities for most of the others. Overcapitalization does not mean large capitalization or capitalization adequate for the greatest undertakings. It is the imposition upon an undertaking of a liability without a corresponding asset to represent it. Therefore overcapitalization is a fraud upon those who contribute the real capital either originally or by purchase, and the efforts to realize dividends thereon from operations is a fraudulent imposition of a burden upon the public. When a property worth a million dollars upon all the sober tests of value is capitalized at five millions and sold to the public, it is rational to assume that its purchasers will exert every effort to keep its earnings up to the basis of their capitalization. When the inevitable depression comes, wages must be reduced, prices enhanced, or dividends foregone. As prices are naturally not increased but lowered in dull periods, it usually resolves itself into a question of wages or dividends."

STORM CENTERS OF DISTURBANCE.

"While this condition may exist under any circumstances, it is exaggerated by overcapitalization in the illustrating case five to one. The overcapitalization securities enter into the general budget of the country, are bought and sold, rise and fall, and they fluctuate between wider ranges, and are more sensitive in proportion as they are further removed from intrinsic values, and, in short, are liable to be storm centers of financial disturbances of far-reaching consequence. They also, in the same proportion, increase the temptation to mismanagement and manipulation by corporate administrators."

"Corporations and joint-stock or other associations, depending upon any statutory law for their existence or privileges, trading beyond their own State, should be required to do business in every State and locality upon precisely the same terms and conditions. There should be no discrimination in prices; no preferences in service. Such corporations serving the public as carriers and in similar capacities should be compelled to keep the avenues of commerce free and open to all upon the same terms and to observe the law as to its injunctions against stifling competition. Moreover, corporations upon which the people depend for the necessities of life should be required to conduct their business so as regularly and reasonably to supply the public needs."

"They should be subject to visitatorial supervision, and full and accurate information as to their operations should be made regularly at reasonable intervals. Secrecy in the conduct and results of operation is unfair to the non-managing stockholders, and should, as well for reasons of state, be prohibited by law."

"If these serious evils were eradicated and a higher measure of administrative responsibility required in corporate officers, a long step would be taken toward allaying the reasonable apprehension that the unchecked aggression of the trusts will result in practical monopoly of the important business of the country."

DIFFICULTY IN FINDING REMEDY.

"Less difficulty is encountered in describing the mischief of trusts than in suggesting a rational and practical remedy."

"The Constitution provides (Article III, section 8): The Congress shall have power 'to regulate commerce with foreign nations and among the several States and with the Indian tribes.'"

"Congress July 2, 1890, enacted that every contract, combination in the form of a trust or otherwise, or conspiracy in restraint of trade or commerce among the several States is illegal, providing punishments and conferring jurisdiction upon Federal circuit courts to prevent and restrain violations of the act. It was commonly supposed at the time of the passage of this act that its provisions forbade the existence of trusts that were engaged in monopolizing the production throughout the country of various articles of general consumption, and the Government shared in this view. Action was begun by the United States against what was known as the sugar trust. This was a corporation of the State of New Jersey, which had acquired the stock of a number of sugar-refining corporations in another State by an exchange of its own shares for the shares of the vending stockholders of those companies. It was formed, as its charter stated, for the purpose of 'buying, manufacturing, refining, and selling sugar in different parts of the country.'"

"The Government's contention was that the purpose of the purchase was to acquire a substantial monopoly of sugar refining, and as the product was for sale and distribution among the States and to foreign countries that the arrangement was a violation of the law cited. The contract challenged was one vesting in the trust the last of the independent refineries but one in the United States, thereby giving it the almost complete monopoly of a necessary of life. Its control was 98 per cent of the whole. The Supreme Court decided that as the monopoly was in the production or manufacture of sugar and its sale or distribution among the States and to foreign countries was but incidental thereto it was not within the prohibition of the law, saying that manufacturing, although it precedes commerce, is not a part of it, and that the act only applied to restraints of commerce."

"This distinction is easily understood when it is recollected that commerce means intercourse, transmission, communication, transportation, and commerce among the States, the regulation of which rests in the Federal power, means, as the term implies, that this intercourse shall be between or among the States."

"Manufacturing, on the other hand, does not imply or necessitate intercourse among the States, but implies a situs or place for its operations?"

DESTROYED PIPE COMBINATION.

"In a subsequent case the Government destroyed a combination known as the Addyston Pipe Combination, but upon the ground that it was a conspiracy among independent producers of pipe to restrain its sale and distribution among the States. The combination in this case operated directly upon interstate commerce."

"These cases seem to define the scope of the antitrust law and show how little there is now left for the statute to operate upon. It is not enough, it seems, that a trust or combination owning corporations exists, or that it is engaged in interstate or foreign commerce, for its mere engaging in commerce is not prohibited, or that it monopolizes production throughout the country, or that it is formed to restrain or monopolize business within a State, or destroys competition in buying or selling within a State, or that by any of these things it indirectly affects interstate commerce with a practical restraint or monopoly, to bring the corporation or its particular transaction within the emphatic clauses or under the drastic penalties of the antitrust law. What seems to be necessary is to establish by legal proof in court a combination for the direct monopolizing or restraining of what is strictly interstate commerce, and to prove this against combinations whose affairs are conducted upon the best legal advice as to what is and what is not obnoxious to the law, by methods secret or ingeniously contrived to avoid the letter of the law."

"I want to call your attention to this law, not in a spirit of criticism, but to show you clearly how far it went and where it stopped."

"It undertook to invalidate all attempts to monopolize interstate commerce, which includes, among other things mentioned, transportation, but



it did not invalidate monopolies of production or regulate commerce in such a way as to free it from the restraints such monopolies directly impose. The court did not say that these indirect effects upon interstate commerce could not be prevented by Congress. It is earnestly contended by many that as it stands this law expresses the limit of Federal power in that direction. But has not Congress the power, by its regulation, to protect commerce between the States from being restrained by State corporations and combinations engaged in interstate trade, when their purpose or effect is to destroy the freedom of such interstate trade, and when their operations are besides injurious to the general public?

#### LEAVE STATE POWER FREE.

"Regulation under such a power would not interfere with mere production or the power of the State over production. It would only affect them remotely and incidentally, just as a monopoly that produces all or most of a certain line of goods affects commerce indirectly.

"If it be true that a State can authorize or permit a monopoly of production within its borders because it has the power over production as such, although it indirectly affects interstate commerce, may not the United States regulate interstate commerce, over which it has exclusive control, even though it indirectly affects production, over which, as such, it has no control?

"If Congress, under its power to regulate interstate commerce, may utterly destroy a combination and forfeit its property in interstate transit, as the Sherman Act provides, because it restrains such commerce, it seems reasonable to say that it can in the exercise of the same power deny to a combination whose life it can not reach the privilege of engaging in interstate commerce, except upon such terms as Congress may prescribe to protect that commerce from restraint. Such a regulation would operate directly upon commerce and only indirectly upon the instrumentalities and operations of production.

"If the Sherman Act exhausts the power of Congress over monopolies, the American people find themselves hopelessly impotent, facing a situation fraught with the most alarming possibilities, with which neither the Federal nor State governments can deal.

"While States may regulate the production and sale of articles within their own borders, at these borders their authority ceases.

"Jefferson, in his letter of March 15, 1789, to Madison, says of the Constitution: 'This instrument forms us into one state as to certain objects, and gives us a legislative and executive body for those objects.'

"One hundred years later the Supreme Court of the United States declared 'that in the matter of interstate commerce the United States are but one country, and are and must be subject to one system of regulations, and not to a multitude of systems.'

"These are illuminating and vital statements of the original purpose in founding this Government to provide for national control of intercourse and of the extent of the national power over it. The statements were made, respectively, by that great leader of the constructive period who was most jealous for the reserved rights of the States against the encroachment of the new national sovereignty and by one of the wisest judges who have interpreted the Constitution's purposes and meaning.

"In the light of such statements, then, can it be possible that the people of the United States, feeling the pressure of undoubted evils, are nevertheless totally powerless? Is it true that although they know with growing certainty the nature of the wrong and are seeking a remedy, the Constitution as it stands does not permit them to pursue it; that amendment to that charter is first necessary; that the power of Congress does not now extend over detriments injuring the entire body of citizens in their most vital concerns because these detriments originate in the States, although the States in the aggregate, and by the cooperation which is essential, do nothing effective to remove them?

"I do not believe that we find ourselves so helpless. When the currents of monopoly evil obviously flow out over State lines and cover the country, not only entering but largely filling the channels of interstate and foreign trade, it will not do to say that the evil is beyond the national reach, and that because the first step which may lead to the evil is production, which must have a fixed situs within a State, the States alone may deal with it.

"If the States are a nation for some purposes, as Jefferson said, with full legislative and executive power, and exclusive regulation of interstate commerce is one of these purposes, as the Supreme Court has decided, it would seem monstrous to urge that Congress and the Executive under its authority are powerless and must sit idly by and see the channels of interstate commerce made use of to the injury of the people by monopolistic combinations.

"Plainly the power must reside somewhere, either in the nation or in the States' reservations; but the effect of present doubts is to create a dilemma under which, apparently, all power vanishes, the States saying, 'Some of us do and some of us do not approve or permit monopolistic production; that is our concern, but when the products cross our borders the problem passes beyond us and becomes a matter of national regulation and control; and the nation appearing to reply, 'I can deal with commerce passing beyond any one State, but effective regulation here may indirectly interfere with production, and that is a State matter which I may not touch.' And so the national and local sovereignties halt and the delictum escapes. The Supreme Court has characterized the power of Congress to regulate interstate commerce, like the related and sometimes auxiliary power to tax, in terms broad and absolute; it has defined this commerce in language which is inclusive of all phases of interstate intercourse, exchange, and trade; it has merely said that production, under an initial phase of modern consolidations which primarily, at least, regards production alone, is not such commerce. I do not think it can be said that the court has gone beyond this point.

#### THE METHOD OF PROCEDURE.

"Conceding that the present law is not effective throughout the situation, we come to the final alternative: May not Congress, under the existing constitutional grants, amend and extend the law, and thus remedy its defects and so effectively regulate national and foreign commerce as to prevent the stifling of competition, the regulating of output and price, and the restraining of national and international trade? If the answer to this question should be in the affirmative, a second question follows: How might Congress so amend the present law?

"I do not scruple to say that in my judgment the more a thoughtful mind reflects on the first question the more unhesitatingly will an affirmative answer be returned.

"That regulation by Congress in this way would indirectly or remotely affect production would be no bar. The very point of the sugar-trust case was that a consolidated scheme of production might lead to commerce, or might indirectly or remotely affect commerce, but did not for that reason invoke the Federal power over commerce; and the illustration from the converse of the situation is significant on the point just stated.

"Congress under this power prevents the importation or transportation of articles deemed injurious to the general welfare. Thus the laws subject the movement of explosives to safeguards and burdens, absolutely excludes impure literature and diseased cattle, convicts and contract labor, and scrutinizes and prevents or checks many foreign and interstate movements throughout the entire field of international and national intercourse in the interest of all the people on grounds of commercial, hygienic, or ethical

policy. Who shall set limits now, in advance of a carefully framed and judicially tested law, to the competence of Congress to regulate commerce in the way suggested in the exercise of the legislative wisdom and in the wide discretion confided to it? Who shall say that the power of Congress does not extend so far? I think it does. I am quite sure no one can now say that it does not.

"Every constitutional question is an open one until it is authoritatively closed by a decision of the Supreme Court.

"The President said in his first message he did not think the authority of Congress to protect the people against the evils of the trusts had been exhausted. The views I have expressed are but an amplification of his.

#### PUBLIC SENTIMENT IS AROUSED.

"Public sentiment is sufficiently aroused and the situation is sufficiently grave to call for the effort the President is making to secure an authoritative exposition of existing laws and suggesting additional ones, to the end that the public mind shall be set at rest and these economic questions taken from the domain of controversy and uncertainty.

"And now a word as to what has been undertaken and accomplished under many and peculiar embarrassments in the way of executing existing laws.

"In the early part of this year it came to the knowledge of the President that great railway systems in the Middle West, upon which every section of the country is dependent for the movement of breadstuffs, had entered into unlawful agreements to transport the shipments of a few favored grain buyers at rates much below the tariff charges imposed upon smaller dealers and the general public. This injustice prevailed to such an extent and for so long a time that most of the smaller shippers had been driven from the field and the business formerly enjoyed by them absorbed by a limited number of persons who received secret and preferential rates. In a word, there was practically only one buyer on each railway system, and the illegal advantages he secured from the carrier gave him a monopoly of the grain trade on the line with which his secret compact was made.

"In the earlier period of this discriminating practice it is probably true that the producer obtained a price for his grain slightly in excess of its market value at the place of shipment; but that result followed only during the short time that the nonfavored dealer continued in business. When he was forced to the wall, as he soon was, the only buyer whom the producer could reach was the party who had bargained with the carrier for an unlawful trade. Thus competition in the grain business was destroyed, and the price actually realized by the farmer was frequently less than the proper market value. A favored middleman, by connivance with the railroad, monopolized the grain products of a large area of country, and virtually fixed the price both to the producer and the consumer.

#### CONDITION AN ODISIOUS ONE.

"It was an odious condition. Nor does this describe the full measure of wrongdoing. It reached the centers of trade and affected related industries with more or less disaster. In Kansas City, for example, it was asserted that local dealers had been excluded from participation in the grain trade; that their elevators for the storage and transshipment of grain, built at great expense for the demands of an important market, had been deprived of business, and that large numbers of laborers had lost employment and remained in idleness, solely because of the diversion of business from its natural channels as the result of this forbidden monopoly in the purchase and transportation of grain.

"The board of trade of that city presented a complaint to the Interstate Commerce Commission, and that body conducted an investigation which disclosed, with convincing particularity and detail, the facts already summarized. That they are true in substance and effect is not seriously disputed in any quarter. The Commission also, about the same time, held another investigation, and reported to the Department of Justice that the six largest meat-packing concerns, popularly known as the 'beef trust,' were in a combination with each other and with many great railway lines, whereby they secured large secret concessions in rates for the transportation of their products, which enabled them to practically monopolize the fresh and cured meat industry of the United States.

"Acting upon this information, which discloses definite and probable facts, bills for injunctions were immediately filed against the principal railroads implicated to restrain them from giving preference to any shipper in the rates or facilities of transportation. In March last there were instituted by the Government in the United States circuit court at Chicago six suits in equity against offending railroad companies, and simultaneously eight additional suits were begun against other railroads at Kansas City. In each instance temporary injunctions were granted, which are still in force, restraining the defendant railroads from paying any rebates or granting any preferences whatever to any shipper, so that all persons should stand on an even footing in respect of transportation over the enjoined roads.

"It was not practicable, of course, nor desirable to bring injunction suits against all the railroads in the United States, but it was believed, in this proceeding against 14 of the most influential lines and having the interlocutory decree of two very eminent Federal judges to the effect that the facts alleged in the bills entitled the Government to the powerful remedy of injunction, that the other carriers would thereafter conform to the law and abstain from illegal practices. How salutary and wholesome the effect has been ask any fair-minded railway manager, who is now enabled to adjust his business freed from the stress of competition with law-breakers, or any honest shipper upon the defendant roads. It is believed that with few exceptions since the issuing of these injunctions the open tariffs have been applied and uniform rates charged to large and small shippers alike. The small grain buyers in the West have resumed operations, the elevators that were closed are doing a profitable business, and the workmen are again employed.

#### NEFARIOUS BUSINESS MUST STOP.

"In a few cases the Department has been informed that certain railway officials who were not enjoined have taken advantage of the restraint placed upon their competitors and been led by cupidity to seek unlawful earnings by according secret rates to increase their business at the expense of roads under injunction. Several of these officials have been indicted already, and more will be if evidence of their misconduct can be procured. And in this connection I take occasion to say that the efforts of the Commission to stop rate cutting, and all similar offenses, will be constantly aided by the Department of Justice and every official under its direction. This nefarious business is to be stopped if it is in the power of the Administration to stop it.

"Another direction in which kindred effort has been made to enforce the law and prevent the abuse of monopoly deserves a word of comment. The cotton interests of the South—growers, buyers, and shippers—complained of the hardships and injury suffered by them from the methods of the railroads in that section in handling and transporting the cotton output. These carriers, by combined action, denied the right of routing to the shippers—that is to say, the right of the shipper to prescribe over what route his goods should pass, and by agreement with each other determined the lines which should move this important product and the percentage of total shipments which each line should transport. In other words, there was a pooling arrangement between the railroads in respect of this traffic in distinct violation of the Federal statute.



"As the result of information, secured with much difficulty, respecting this forbidden practice a number of indictments were obtained against the offending roads and their principal traffic officers. At first the indicted carriers showed an intention to continue their unlawful combination, and steps were taken by the department to institute similar prosecutions against the same and other carriers for like misconduct at other points in the cotton section. Since that time, however, the roads have receded from their position. They now accord to shippers the right to route their traffic, and avow their purpose strictly to observe the law.

"The remarkable advance in the price of meats, coupled with the disclosures elicited by the Commission respecting secret rebates enjoyed by the great packing houses, and other information obtained by the Department of Justice, induced it to direct an investigation into the methods of the so-called 'beef trust,' as a result of which bills were filed under the Sherman anti-trust law and injunctions issued restraining each of the 6 defendant concerns from combining or agreeing upon the prices at which they would sell their products in States other than those where it is prepared for market, and likewise restraining them from combining and agreeing upon cartage charges for delivering their shipments at destination.

#### QUESTION OF CONTROL RAISED.

"Under the rules of the Federal courts, after the writs of injunction were issued the defendants had until midsummer to answer or demur to the Government's bill of complaint. They chose to demur to the bill, which raises the question whether, on the facts stated, and under the Constitution and existing law, they are amenable to the control of the Federal Government.

"The Northern Pacific and Great Northern railroads, having their eastern termini at the head of Lake Superior, and extending westwardly via Minneapolis and St. Paul to the Pacific Ocean, occasionally intersecting and again separating, and generally no farther distant from each other than 100 miles, and being in 1901 practically the only competitors in the transportation of traffic to and from most of the States traversed by them, combined together and purchased the capital stock of the Chicago, Burlington and Quincy Railroad system. Thus those two transcontinental lines became the joint owners of another great system which was gradually pushing its rails northwesterly into the territory occupied by the purchasers and westwardly to the Pacific Ocean.

"To effect this purchase the Northern Pacific and Great Northern companies issued joint bonds for \$300,000,000. Shortly after the purchase of the Burlington road the principal owners of the Northern Pacific and Great Northern roads caused to be organized under the laws of New Jersey the Northern Securities Company, with a nominal capital of \$400,000,000, of which \$300,000 was paid in. That company was organized to become the owner of the capital stock of the Northern Pacific and Great Northern railroad companies, and this was accomplished by an exchange of the stock of the New Jersey corporation for the stock of the two railroad companies at such a price that if the securities company got all of the stock of both roads its entire \$400,000,000 of capital would be absorbed in the exchange.

"At the time of the purchase of the Burlington road the capital stock of the three railroad systems was about \$360,000,000. That was the capital upon which the combined traffic carried by those roads might, after paying expenses of operation, reasonably be expected to provide dividends. By the bond issue to secure the Burlington and the inflation of the 'securities' capital that same traffic is now expected to provide dividends upon more than two hundred millions of stock in addition to the original \$360,000,000.

#### DEPARTMENT BROUGHT SUIT.

"When the Department came into possession of these facts a suit in equity was at once begun to restrain the operation of the proposed merger and to restore the independence of these transcontinental railroads as competing lines, which suit is now pending.

"Here, then, are four phases of the attack on combinations in restraint of trade and commerce—the railroad injunction suits, the cotton pool cases, the 'beef trust' cases, and the Northern Securities case. The first relates to the monopoly produced by secret and preferential rates for railroad transportation, the second to railroad traffic pooling, the third to a combination of independent corporations to fix and maintain extortionate prices for meats, and the fourth to a corporation organized to merge into itself the control of parallel and competing lines of railroad and eliminate competition in their rates of transportation.

"There appears to be no doubt of the facts as set out in the bills filed in these various cases. The combinations proceeded against are in some respects different from those considered in cases that have been decided by the Supreme Court, and it is said by their organizers that they have avoided the prohibitions of the anti-trust law. The Department of Justice, being of opinion that they are each in violation of that law, found it to be its manifest duty to so advise the President, with the result which is known to all.

"My whole purpose in what I have said is to challenge the proposition that we are hopelessly helpless under our system of government to deal with serious problems which confront us in respect to our greatest interests. Since the radical questions of human rights and human governments have been settled, the production, preservation, and distribution of wealth receive the chief attention of civilized peoples.

"The extent to which legislative control over commercial activities should be exercised is, of course, a question for legislative wisdom. We have the experience of the other nations to guide us in determining how far the delicate and mysterious rules of trade can be interfered with by positive statutes without injury. That experience teaches us that the least interference consistent with the preservation of essential rights should exist. Arbitrary regulations that restrain free intercourse are usually found to be unwise.

#### CRIMES AGAINST COMMON LAW.

"Primarily it is for the Congress to decide whether it has the power and whether and to what extent it will execute it; what character of restraints, whether all or those only which are unreasonable and injurious, shall fall under the ban; whether legislation in the first instance should extend to all commerce or only to commerce in articles of vital importance to the people. The time never was when the English-speaking people permitted the articles necessary for their existence to be monopolized or controlled, and all devices to that end found condemnation in the body of their laws. The great English judges pronounced that such manifestations of human avarice required no statute to declare their unlawfulness; that they were crimes against common law—that is, against common right.

"It is difficult to improve upon the great unwritten code known as the common law. Under its salutary guaranties and restraints the English-speaking people have attained their wealth and power. It condemns monopoly, and contracts in restraint of trade as well. The distinction, however, between restraints that are reasonable in view of all the circumstances and those which are unreasonable is recognized and has been followed in this country by the courts.

"This distinction makes a rule that may be practically applied, and preserves the rational mean between unrestrained commerce and the absolute freedom of contract.

"A law regulating interstate commerce for its protection against restraint, so broad as to cover all persons whose business is conducted under

agreements which are in any way or to any extent in restraint of trade, might exclude thousands of small concerns conducting industries in one State from marketing their products in others; but a law which only covers contracts and combinations in restraint of trade as defined by the common law would exclude all hurtful combinations and conspiracies. Congress can, if it sees fit, adopt the scheme of that law. In the enforcement of such law each case as it arose would be considered upon its own facts, and the rule of guidance would be as laid down by the Supreme Court of the United States—that is, 'public welfare is first considered, and if it be not involved and the restraint upon one party is not greater than protection to the other party requires, the contract may be sustained. The question is whether, under the particular circumstances of the case and the nature of the particular contract involved in it, the contract is or is not reasonable.'

#### FREEDOM OF CONTRACTS.

"Let me give you an illustration showing the difference between a reasonable and unreasonable arrangement or contract at common law. First, as to a reasonable one:

"The case of a sale of a business and its good will is a good illustration. Here a restricted covenant upon the part of the vendor not to engage in competition in a similar business is often the main consideration for the transaction. This covenant is, of course, in restraint of trade and interferes with competition. But to make a contract such as this illegal is not only restrictive of the liberty of contract, but it is depriving one of his property without due process of law. Good will is property capable of being appraised, bought, and sold. In many cases it is the main ingredient of value. It represents all the struggle, industry, tact, and judgment that makes success. In estimating the worth of a business it is not infrequently reckoned more valuable than the buildings and machinery that make up the physical plant. Such a contract has been held reasonable and valid.

"Now as to an unreasonable agreement, let me quote an illustration from the pen of a justice of the supreme court:

"In *Morris Run Coal Company v. Barclay Coal Company* (in the supreme court of Pennsylvania) the principal question was as to the validity of a contract made between five coal corporations of Pennsylvania, by which they divided between themselves two coal regions of which they had the control. The referee in the case found that these companies acquired under their arrangement the power to control the entire market for bituminous coal in the northern part of the State, and their combination was, therefore, a restraint upon trade and against public policy. In response to the suggestion that the real purpose of the combination was to lessen expenses, to advance the quality of coal, and to deliver it in the markets intended to be supplied in the best order to the consumer, the supreme court of Pennsylvania said:

"This is denied by the defendants, but it seems to us it is immaterial whether these positions are sustained or not. Admitting their correctness, it does not follow that these advantages redeem the contract from the obnoxious effects so strikingly presented by the referee. The important fact is that these companies control this immense coal field; that it is the great source of supply of bituminous coal to the State of New York and large territories westward; that by this contract they control the price of coal in this extensive market, and make it bring sums it would not command if left to the natural laws of trade; that it concerns an article of prime necessity for many uses; that its operation is general in this large region, and affects all who use coal as a fuel, and this is accomplished by a combination of all the companies engaged in this branch of business in the large region where they operate. The combination is wide in scope, general in its influence, and injurious in effects. These being its features, the contract is against public policy, illegal, and, therefore, void."

#### FOR COURTS TO DETERMINE.

"The question of reasonableness is thus one for the courts to determine, and it is manifest that this doctrine gives play to just considerations of the freedom and inviolability of contracts with proper judicial safeguards against unconscionable arrangements rightly void as contrary to public policy. The Sherman Act is entitled 'An act to protect trade and commerce against unlawful restraints,' etc., and the able dissenting opinion in one of the leading cases in the Supreme Court argues from this indication and other considerations that the restraints intended to be stricken off were only those unreasonable restraints as defined at common law. But the law was authoritatively decided to include all restraints, whether reasonable or unreasonable.

"Nevertheless, in extending the law it might be deemed wise by Congress now to import and impose this distinction clearly for the following reasons among others: Because the hard and fast extreme rule may work injustice in various instances where a moderate restraint is either not harmful at all to the general interests or only slightly so in comparison with the importance of the freedom and sacredness of many contracts which public policy does not manifestly condemn; because the question of reasonableness, as in the common law, should be for the courts—surely the safest arbiter and reliance in human disputes—and because, from the economic standpoint, freer play would thus be given, and perhaps 'a way out' indicated, in the conflict between the important principles of free competition and combination.

"We have no certain knowledge of the nature and effect of the natural laws which are carrying forward evolution in economic and social phenomena as in all other branches of biology, but we may be confident that in some sort and with whatever perversions, public policies, constitutional charters of government, and municipal laws roughly manifest these natural laws and reflect their main tendencies. Proper free play of forces might be maintained by importing into the situation the idea of 'reasonableness' and judicial determination thereof for the control of unnecessarily destructive competition, and for preventing the opposite danger by devising a system of regulation which would strike the evils of combination at the heart and aid in the great object of restraining hurtful restraints and monopolies, especially as to the prime necessities of life.

"The conditions of our commercial life are, as I have said, the result in part of an evolution of forces of world-wide operation. They have developed gradually and are not, perhaps, fully understood. Laws regulating and controlling their operation, before they ripen into a complete system of wise jurisprudence, will be of gradual growth."

Mr. COCHRAN. I concur in some degree with the views of the gentleman from Iowa [Mr. HEPBURN], but dissent from his contention that the Sherman law has remained on the statute books for fifteen years a dead letter, solely because the Attorney-General has had no funds at his disposal with which to prosecute offenders. Although the great monopolies, commonly called trusts, are unlawful, neither their formation nor their lawless conduct has been shielded by secrecy, or even attempt at secrecy.

The Attorney-General has needed no detectives to ferret out the facts. The newspapers have chronicled every step by which these monopolies have been created. The public prosecutors and judges of courts have known when and where they were

formed, the methods used in their formation, and the purposes for which they have been formed. They, in common with the rest of us, have read at the breakfast table in the morning papers detailed accounts of the proceedings by which each of the great monopolies was established. Gentlemen representing rival railroads have met in the public parlors of hotels and there agreed that upon a certain day an increased rate should be enforced by what has been called at one time a "pooling arrangement," at another a "traffic arrangement," and at another a "gentlemen's agreement." The proceedings have appeared next morning in the newspapers. These unlawful combinations have had different names, but always the same effect—the suppression of competition contrary to law. I reiterate the statement that all this has been publicly done. The same is true of other unlawful combinations.

Mr. Chairman, in common with private citizens, who bear the burdens inflicted by this infamous system, Attorneys-General, Federal court judges, United States district attorneys, and United States marshals have known all these facts. The Attorneys-General have not caused the indictment of the offenders, the district attorneys have confined their attention to petty offenders, and the marshals and their deputies have confined their attention to violators of the revenue laws.

Had the courts exhibited the same disposition to punish the general manager of the railroad that they have on occasions shown to punish the baggage master and the brakeman for violating laws and injunctions, there would have been found means ample for the purpose of enforcing this statute.

If what I have said be true, we must look a little further than was indicated by the remarks of the gentleman from Iowa [Mr. HEPBURN] to ascertain why the Sherman law has not been enforced. Presidents, Cabinets, courts, and prosecutors have deliberately ignored it and allowed it to remain a dead letter.

I recall the fact that when recently the President indicated a disposition to enforce this statute, the great bankers and financial potentates, who in recent years have figured as the chief advisers of Presidents and Cabinets, said in the public prints, in interviews, that they were astounded that the President should now resurrect a law that from the start had been treated as a dead letter. These captains of industry and masters of finance declared in these interviews that any attempt to enforce the law was a menace to the general welfare, an assault upon "business interests," and because heretofore the public authorities have refrained from its enforcement, denounced any effort to enforce it as anarchistic and revolutionary.

Here we have the truth. The public authorities have permitted the formation of these combinations by proceedings as deliberate, as orderly, and as public as this session of the House of Representatives, with no effort to prevent their formation or punish the guilty parties. At last, when, under a pressure of public sentiment, to meet the exigencies of a political campaign, the President intimated that prosecutions would be entered upon, the offenders pleaded prolonged immunity and the flagrancy of their lawlessness as a reasonable bar to the proceedings. Some of them arraigned the President as a disturber of the business of the country, and all of them insisted that the proposal to curb the monopolies was a menace to "business interests."

Mr. Chairman, the Sherman law has not been enforced because those charged with the duty have not desired its enforcement. The individual who has been injured by monopoly is loth to enter a civil action, because the tedious and expensive remedy thus sought would cost more than could be recovered. Meantime the criminal statutes have been held applicable to the petty offender, to the violator of the excise laws, to the smuggler of a few dollars' worth of dutiable goods. The public prosecutors and judges who direct the movements of grand juries are responsible for the fact that this law has remained so long a dead letter upon the statute books.

Mr. Chairman, the immunity of the trust managers from punishment is easily explained. Federal judges, Attorneys-General, and public prosecutors in the Federal courts have not been drawn from circles interested in the enforcement of this law. The discussion of the subject shows two schools of thought, widely divergent, and the disputants are equally honest. On one side are arrayed those who believe that it is in the very philosophy of things unescapable that consolidation and concentration shall go on and on, until the reign of the monopolist is universal.

The time of Mr. COCHRAN having expired, by unanimous consent, on his request, it was extended five minutes, and he proceeded with his remarks, as follows:

Mr. COCHRAN. Advocates of this view tell us that modern inventions and modern methods are the forces at work, and that trusts and monopolies are the unescapable consequence. Predicating all their arguments in defense of this system upon this contention, they insist that to attempt to prevent the reign of monopoly is futile resistance of the inevitable. I believe that as

to many, if not all, who urge this view, it is plain that they do not regard the prevention of monopoly as desirable.

Is it saying too much to assert that from classes entertaining this view and some entertaining even more extreme views of the same kind, without a single exception during all the period in which these wrongs have been practiced, the Federal judiciary and the prosecutors of the Federal courts have been drawn? I declare that, in my opinion, to this fact alone—the selection of all court officers, judges, and prosecutors, from circles bitterly opposed to anticorporation legislation—are attributable, first, the utter failure to enforce the Sherman law and other similar legislation, and, second, the growing conviction that if we are to get rid of trusts and monopolies we must first get rid of corporation counsel in high places in the judiciary and law department of the Government.

Opposed to the theory which teaches that the modern monopoly is the creature of evolution and unescapable is the belief that licensed avarice and uncurbed lawlessness are the progenitors of monopoly. Mr. Chairman, I believe the masses are of this opinion. Furthermore, the people can no longer be deluded as to who is responsible for the failure to enforce the law. The remedies placed within reach of individuals will never be resorted to, if for no other reason, because generally no aggrieved individual could bear the expense of their enforcement. These remedies will never be invoked for the purpose of suppressing monopoly. What is everybody's business is nobody's business. Therefore we must look to the courts, to grand juries, and to the public prosecutors for relief. And what is the outlook?

It is with reluctance that I declare that it is no longer possible to secure the appointment of an old-fashioned lawyer to the Federal bench. It is an ungrateful thing to say, but it is true that Federal judges in recent years have come from circles in sympathy with the existing system. It is an ungrateful thing to say, but it is true that no representation of the people's side of this question is found in any branch of the Federal Government. The fact that this statute has remained a dead letter for over fifteen years shows conclusively that neither in the White House, nor upon the bench, nor in the prosecutor's office have the people had a representative of their views.

Mr. Chairman, if it be true that from the Chief Magistrate down to the district attorney the Federal official charged with the execution of the laws have so long looked with indifference upon the fact that all restraining statutes have been a dead letter, let this one fact be my warrant for this wholesale arraignment. Surely it is sufficient.

And, Mr. Chairman, the Congress is not less fairly subject to similar criticism. When the interstate-commerce bill was passed, the intention of its author and of the Legislature was to provide a tribunal of extensive and salutary powers. The intention of the Legislature and the belief of the people was that we had conferred upon that tribunal plenary powers as to the control of rates, as to the prevention of discriminations, and as to the various evils in railroad traffic which admittedly needed correction.

Soon after its passage a decision was rendered by the Federal courts which fairly annihilated the usefulness of the Commission, and since then it has continued to exist, shorn of its essential powers by this decision, a mere bureau of statistics. In every report of the Commission from that day until this it has asked Congress for such amendment as would give it the powers which it was supposed had been conferred upon it at the time of its creation. Why has this law been allowed to remain unamended, and therefore a dead letter, for so many years?

I venture the assertion that in this House, and at the other end of the Capitol, at every session throughout this long period the individual members, if questioned, would have said the interstate-commerce law should be amended, yet, collectively, the lawmakers have not amended it.

Can any one tell me why?

The CHAIRMAN. The time of the gentleman has expired. The Chair recognizes the gentleman from Ohio.

Mr. GROSVENOR. Mr. Chairman—

Mr. COCHRAN. I ask that I may be permitted to proceed for two minutes longer.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio. The gentleman from Missouri desires to proceed for two minutes further.

Mr. GROSVENOR. I have no objection.

Mr. COCHRAN. Then, summarized, here is the situation: At last a public sentiment has been aroused which demands that something shall be done. Will this demand be persistent and inexorable, or will it be pacified by a brief halt in the process of consolidation and the remission of some of the exactions of the monopolies? Will the persons engaged in this unlawful pursuit be enabled to tide over another Presidential election? The ultimate object of the trusts is to secure definite recognition as legal organizations. In this connection I call attention to the fact that,



notwithstanding the recent attempts of the majority in this House to simulate hostility to trusts, no one in high official circles is demanding anything but the regulation of the trusts. Regulation of the trusts, not their elimination, not the prohibition of trusts, not the prevention of monopoly, is the remedy proposed. To regulate the monopolies would be to recognize them as being lawful. They will exist until repressive legislation accomplishes their extinction.

One remedy is to wipe them out; but they say that they shall be "regulated." The leaders of the Republican party, including the President of the United States, have said there are good trusts and bad trusts. What will we do with the "good trusts?" Nothing, I suppose, for we would not harm that which is "good." What is to be done with the "bad trusts?" The President says we will regulate them. What trusts are good—what bad? Nobody has undertaken to list them.

Plainly, gentlemen, the question to be determined is whether the system shall be recognized and legalized by statutes regulating them or proceed on lines aiming at their elimination. The Republican leaders have abandoned the position which both parties have heretofore taken—that all combinations in restraint of trade are against public policy, injurious to the people, and should not exist in any part of the country. [Loud applause on the Democratic side.]

Mr. GROSVENOR. Mr. Chairman, I do not rise to discuss the general question of trusts. The Democratic party in the early months of the recent campaign presented two propositions to the country about which they proposed to electrify the people. And they proposed to sweep away the Republican majority of the House, and pave the way to the immediate reorganization of the Democratic army, thus to get ready for the grand march of 1904 and the subjugation of the places of power now occupied by the Republican party. One of these propositions was the cruelty to the Filipinos as practiced by the American Army. Several tons of this literature were produced in this Capitol. A second one was to be the question of trusts. The question of imperialism faded away and the question of the overdoses of water administered to the Filipinos evaporated and there was nothing left but the trusts, and when the election was over there was nothing left of the Democratic party. [Laughter on the Republican side.]

We had carried the country in 1900 with a majority for the reelection of McKinley, and had the election at the end of all this trust trouble taken place in November last, we should have added about 39 majority to the electoral vote in favor of the Republican candidate. We swept every State except a part of Rhode Island and a little bit of the exceedingly small State of Nevada, from the Atlantic Ocean on the northeast to the Pacific Ocean on the west, excepting the solid South. That section stands firmly for free trade, restricted suffrage, and all sorts of Populistic isms.

Mr. FITZGERALD. The gentleman forgets that there was a section of New York. [Laughter on the Democratic side.]

Mr. GROSVENOR. Which section was that?

Mr. FITZGERALD. That section from which comes the intelligence of the State, Greater New York. [Laughter.]

Mr. GROSVENOR. I suppose the gentleman does not reside in that section. [Laughter.]

Mr. FITZGERALD. Let me say to the gentleman that I am one of those Representatives, and I am proud of the fact.

Mr. GROSVENOR. I have no doubt the State of New York is proud of its Representative who has just spoken, and so am I.

Mr. FITZGERALD. The gentleman overwhelms me with flattery.

Mr. GROSVENOR. But the State of New York has greater pride, in my judgment, in that distinguished gentleman who was elected governor of New York for the first time in which a Republican governor has been elected to succeed himself since the war of the rebellion. [Applause on the Republican side.] I refer to Governor Odell.

Mr. FITZGERALD. It is the first time the Republican organization has dared to give a Republican governor a chance to succeed himself. [Laughter on the Democratic side.]

Mr. GROSVENOR. Then it shows that we are improving and that the people are ratifying what we do, and approving Republican progress. [Laughter and applause on the Republican side.]

Now, Mr. Chairman, I arose especially to call attention of the gentleman from Missouri [Mr. COCHRAN] to an error in his introductory statement in his long speech. He says the Sherman antitrust law stood until very recently a dormant law. Or perhaps he said "a dead-letter" act. I understood he used the word "dormant." I assume by that he meant that it was not active, that it was not put into operation, that no effort was made to accomplish the purposes for which it was ostensibly passed, and it simply was allowed to lie on the statute books dormant.

The law was passed near the close of the Administration of Benjamin Harrison. It was passed by a Republican House and Senate, and signed by a Republican President, and was passed

in obedience to a suggestion of the President. It was introduced into Congress by a Republican Senator and was supported almost entirely and exclusively by Republicans in both Houses of Congress. Unfortunately the smiles of the Almighty about that time were withdrawn from the people of the United States for some reason I never could explain. [Laughter.]

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. HEPBURN. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for ten minutes.

The CHAIRMAN. The gentleman from Iowa asks that the time of the gentleman from Ohio be extended ten minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GROSVENOR. And the gentleman who to-day is the incipient but assuredly the forthcoming architect of the reorganization of the Democratic party for 1904, Grover Cleveland, became President of the United States. One of the earliest acts of his Administration was a pronouncement sent forth by his Attorney-General that the Sherman law was of doubtful constitutionality and was absolutely inefficient to cure any of the evils against which it was ostensibly aimed, and for four long years, as I recollect the history, the law did "lie dormant" and no action was brought under it while trusts, real trusts, were in actual existence. The Standard Oil trust at that time was a trust to all intents and purposes, the interested members pooling the product and their industries into the hands of trustees, who held certificates and in all respects carried on during the entire Administration the business of a great trust.

When Mr. McKinley came into office, one of the earliest movements of his Administration was to test the declaration of a Democratic Attorney-General, Mr. Olney, and the attack was first made by the Attorney-General's Department against the Eastern Traffic Association, or the Trans-Missouri Traffic Association. Both of them were injurious combinations of railroad management in the form of trusts. Both of them were assailed in the Supreme Court of the United States. The cases were argued by Mr. Richards, the Solicitor-General, a lawyer from Ohio, who had been the attorney-general of that State during two terms of William McKinley as governor, and who was brought here for the express purpose of carrying on those prosecutions; and he destroyed both of those great combinations by the ultimate judgment of the Supreme Court of the United States.

Then, in order to test a further development of that law, an attack was made upon a manufacturing trust in the city of Cincinnati, known as the Addyston Pipe Company, and at the end of the litigation that was broken up. And from that day to this insistent and persistent prosecutions of trusts have been carried on by the Republican Administration. I could attach to my remarks, if necessary, the names of more than 25, more than 50, organizations that have been broken up by virtue and in pursuance of this legislation, and kindred legislation in the States, which the gentleman says has been "dormant."—

A MEMBER. The whisky trust.

Mr. GROSVENOR. The whisky trust, perhaps, being one of them. The Standard Oil Company abandoned its trust character in the State of Ohio and reorganized itself upon the basis of a simple corporation, which probably is not obnoxious to the Sherman Act or any reasonable and constitutional legislation.

Now let me go on.

Mr. COCHRAN. Do you say that the whisky trust was broken up by a proceeding under the Sherman law?

Mr. GROSVENOR. In one phase, certainly.

Mr. COCHRAN. By a proceeding under the Sherman law?

Mr. GROSVENOR. Yes, sir; probably under a proceeding of a State court; I do not know which.

Mr. COCHRAN. Then, when you said it was broken up under the Sherman law you did not know that that was the case?

Mr. GROSVENOR. I did not; and the gentleman did not seem to know anything when he was talking. [Laughter.] I know a little. The gentleman said that the Sherman trust law lay "dormant" until recently. I was pointing out to him that he did not understand the history of his country.

Mr. COCHRAN. Why did you mention the whisky ring?

Mr. GROSVENOR. Because somebody at my right did so as I was enumerating these trusts.

Mr. COCHRAN. Can you name one trust that has been broken up under this law?

Mr. GROSVENOR. I have already done that. I am not to be taken off my feet to answer the gentleman's question. I did not interrupt him when he had fifteen minutes.

I cite to the gentleman the case of *The United States v. The Joint Traffic Association*, reported in 107 U. S. Reports, 505, where the gentleman will find the opinion of the court that broke up and destroyed that organization. I know some of the gentlemen of it. I know the gentleman who was at the head of it. I know that he was living in New York, and I know that he at once



abandoned the office there which he occupied and retired from business.

Mr. COCHRAN. Do you not know also—

Mr. GROSVENOR. I decline to be interrupted any further.

Mr. COCHRAN. I do not blame you.

Mr. GROSVENOR. Now, then, coming on down, we had what was supposed to be a beef trust. The present Attorney-General took it into the courts of the country. I do not undertake to stand here and say whether that meat trust was obnoxious to the law or not; but it was assailed by the Attorney-General under this so-called dormant statute, and it at once dissolved itself rather than meet the prosecution in the courts. Is it a dormant statute that is now being invoked against the merger in the Northwest? Is it a dormant statute that is being invoked in New Jersey in a proceeding in which the chancellor has just delivered an opinion upholding the law? Is that a dormant statute? It is a statute, Mr. Chairman—and when I have said this I have said all I desire to say—it is a statute which, in my opinion, contains all that it is possible to put in English that shall inveigh against illegal combinations for any purpose in this country in the form of a trust. And I do not believe that the gentleman from Missouri, while he stands here and scolds everybody because he says something has not been done, can add to our statutes stronger language than the antitrust Sherman law of 1890 now contains.

Mr. GOLDFOGLE rose.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GROSVENOR] yield?

Mr. GROSVENOR. Yes, sir.

Mr. GOLDFOGLE. The gentleman concedes the existence of trusts, and concedes that they were unlawful combinations under the statutes of this Government. Will he point out a single instance in which the Attorney-General or any other Federal officer attempted to prosecute in the criminal courts of the United States any one concerned in the trusts, which the gentleman himself assumes and has conceded to be illegal?

Mr. GROSVENOR. I am not sure—my information is not perfect—but were not the members of the ice trust in New York prosecuted? [Laughter on the Republican side.] It may not have been done by indictment of the grand jury, but it was done by virtue of the verdict of the people of the State of New York. I have some recollection on that subject.

But I did not get up here to cover the whole field of discussion. We shall have more time in the future when the Republican committees of this House shall have perfected the legislation which we propose to offer to the country. But in the meantime I desire that my friend from Missouri shall not be unmindful of the earnest efforts that have been made by the Republican Administrations at every step of the way to enforce a law that was originally discredited and denounced by the only Democratic Administration that we have had since the war of the rebellion, and I pray the last one we may ever have. [Laughter and applause on the Republican side.]

Mr. UNDERWOOD. Mr. Chairman, I have listened with a good deal of interest to the remarks of my friend from Ohio [Mr. GROSVENOR], and I am glad to see that he has made a confession that we have been anxious to have made by the Republican party for some years—that is, that the laws now on the statute books known as the antitrust laws are not mere idle statutes, but that they are effective; that they can stop the trust evil if they are enforced. I understand the gentleman from Ohio states that that is the case. Well, the people have complained greatly in the last twelve years, since the enactment of what is known as the Sherman law, that the trusts were destroying individual enterprise and individual business in this country. The Republican party has repeatedly repudiated the idea that they were responsible for that condition of affairs.

Yet since the enactment of the Sherman law, the act of 1890, we know that the trusts in this country have developed and grown and taken possession and control of the business of the country more than has ever been known in the history of this country before. Now, the gentleman from Ohio says, and correctly says, in my judgment, that the law has been on the statute books all the time by which these trusts could have been driven out of business. In fact, he points with pride to one or two cases where the Republican party has actually used the law on the statute books to suppress certain trusts that it was not in partnership with, but I want to ask him if the law that he takes so much pride in, the law that he says is effective and can suppress trusts, is on the statute books, why has not the Republican party, which has been in power in this country since 1896 and which has had absolute control of the legislative and executive branches of this Government since 1896, suppressed the trusts? I would ask him why, since the Republican party has had complete control of the executive—the President, the Attorney-General, and Congress, with the power to provide money—it has not suppressed the trusts?

Mr. LACEY. Mr. Chairman, I would like to interrupt the gentleman.

The CHAIRMAN. Does the gentleman yield?

Mr. UNDERWOOD. Certainly.

Mr. LACEY. Is not the gentleman aware of the fact that the Supreme Court in the sugar trust case held that a manufacturing corporation manufacturing in a single State could not thus be controlled?

Mr. UNDERWOOD. Well, in some cases of course the trust law does not apply; but the gentleman from Ohio, one of the leaders of the Republican party on the floor of this House, has just said in the presence of this House that the law was ample and that the Republican party took pride in the fact that the law was enacted under the Administration of President Harrison, by a Republican House and by a Republican Congress. He has pointed out that it could be enforced, and was enforced in several instances, but I ask you to look at the trusts that exist to-day. Enumerate in your own mind and before the people the trusts that are a living menace to the people to-day, and yet, according to the confessions of your own leader, you have had the law in your hands and have had the power and the ability to suppress those trusts since 1896, and have not done it.

Now, I congratulate the gentleman from Iowa [Mr. HEPBURN] and the gentleman from Illinois [Mr. CANNON] that when this side of the House offers an amendment to this bill to aid the Attorney-General and the Executive of this great Government to enforce the law against the trusts they had the manhood to stand up for the masses of the common people of this country; that they have had the manhood and the courage, notwithstanding the political line, to come across and accept the proposition we made and aid us in the enactment of this legislation, which will do something toward suppressing the evils that the people are crying against.

Mr. GAINES of Tennessee. Mr. Speaker, I rejoice that we have an opportunity to pass this resolution putting this amount of money in the hands of the Attorney-General to vigorously enforce our antitrust laws. I regret that it has not been done before.

The resolution which is now pending, introduced, as it shows on its face, by my distinguished friend the gentleman from Iowa [Mr. HEPBURN], on "December 1, 1902," was not reported to this House nor brought into this House until the Republicans were pricked into action to-day by the movement of the Democrats on this side, led by the gentleman from Georgia [Mr. BARTLETT].

Mr. Chairman, it has been stated by the gentleman from Ohio [Mr. GROSVENOR] that the antitrust act of 1890, known as the Sherman law, is a product of the Republican party. I deny the proposition.

I go back farther, Mr. Chairman, to the time when Mr. Cleveland was a candidate for President, and recall the fact that he, with the Democrats, denounced trusts, while the "Plumed Knight from Maine," Mr. Blaine, his competitor, said that trusts were "private affairs with which the people had no concern."

The Democratic party in 1884 put into its platform a plank denouncing "trusts," and the Democrats scored a victory on that platform.

In 1888 we again denounced "trusts," and when the time came in 1890 to pass judgment upon what is now known as the Sherman antitrust law the Democrats and Republicans united in the Senate and in the House in its enactment, and when that measure passed this House and when it passed the Senate there was not a single solitary dissenting vote. Yet we hear it stated in this House and upon the stump that that law is a Republican measure.

The first bill introduced on "trusts" was by Mr. Sherman, undertaking, it is said, to kill the "Diamond Match trust" that had its head in the State of Michigan, from which State hails the president and founder of that "trust," a recently appointed United States Senator from that State.

Mr. Chairman, when, in 1890, this measure came up in Congress its constitutionality was doubted by leading members of both parties; but it soon got into the courts and all doubt has been removed, while the law has been vigorously enforced when the Democrats were in power.

I regret that the gentleman from Ohio [Mr. GROSVENOR] is absent, for I wish to say that his claim that the Addyston pipe trust case—the leading case on that subject—was begun by a Republican Administration is not correct. That suit was filed on "December 10, 1896," by order of Attorney-General Garland, a Democrat, who instructed Mr. Bible, a Democrat, the United States district attorney at Chattanooga, in my State, to file that suit, and in addition to filing an injunctive process by which that great trust was ultimately crushed, he instituted criminal proceedings under this antitrust law and secured the conviction of the parties interested in the trust. They were found guilty under the law and were fined \$5,000 each.

The criminal sections of this great and drastic law that crushes when it is enforced, that is innocent when it is not enforced, are now ignored in the great "beef-trust case." The authorities have simply gone to Chicago—I have it from the officer in



charge—and filed an injunction suit against this trust. They have not followed the example of General Garland and of Mr. Bible and a Democratic Administration and indicted the trust agents and those interested in it. The United States district attorney at Chicago said to me that if they disobeyed the injunction they would be brought up for contempt and put in jail in that way.

[Here the hammer fell.]

The CHAIRMAN. The question is on the amendment offered by way of substitute to the amendment offered by the gentleman from Georgia [Mr. BARTLETT], which was accepted by the gentleman from Georgia.

The substitute was agreed to.

The CHAIRMAN. The question now is upon the original amendment as amended by the substitute.

The amendment as amended was agreed to.

Mr. BARTLETT. Mr. Chairman, I desire to ask unanimous consent to extend my remarks, and in so doing to include portions of the speech delivered by the Attorney-General at Pittsburg.

Mr. HEMENWAY. Does the gentleman intend to put it all in?

Mr. BARTLETT. I will; yes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD, and to include certain printed matter in them. Is there objection?

There was no objection.

The Clerk read as follows:

For the rent of buildings and parts of buildings in the District of Columbia used by the Department of Justice, \$20,100.

Mr. GAINES of Tennessee. Mr. Chairman, when the trust question came up I was about to ask the chairman of the committee reporting this bill how much money does this and other appropriation bills carry for hack hire, carriage hire, horse hire, livery bills, and so forth, for various Federal officers here in the city of Washington.

Mr. BINGHAM. I will state to the gentleman that by a rough calculation the amount carried by this bill for that purpose is about \$12,000. I would further state to the gentleman that under the statute the contingent funds of all the departments must be set out in an official document annually, giving every detail of the expenditure.

Mr. GAINES of Tennessee. I understand that.

Mr. BINGHAM. And that document is available.

Mr. GAINES of Tennessee. I wanted to find out how much hack hire, etc., the Government was paying for these officials.

Mr. BINGHAM. Twelve thousand dollars in this bill, and the details of the expenditure of the contingent fund can be found in the printed document annually sent to Congress.

Mr. GAINES of Tennessee. Where can that document be found?

Mr. BINGHAM. In the document room.

Mr. GAINES of Tennessee. I wanted to find out how much hack hire, livery bills, etc., the Government paid for these gentlemen. I understand that has been the law for a long time, and I wished merely to find out how much we were spending to meet such very necessary and imperative obligations.

Mr. GOLDFOGLE. Mr. Chairman, I ask unanimous consent to extend my remarks on the amendment offered by the gentleman from Iowa [Mr. HEPBURN].

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

To defray the cost of the employment of auditors and additional stenographers, when deemed necessary, in the Court of Claims, to be disbursed under the direction of the court, \$8,000.

Mr. GAINES of Tennessee. Mr. Chairman, I have here two letters addressed to Attorney-General Griggs, and his reply, dated May 31, 1900, showing the number of trust suits instituted since the passage of that act down to that date. I will ask unanimous consent to extend my remarks in the RECORD by inserting these two letters.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to extend his remarks in the RECORD.

Mr. CANNON. Upon what subject, Mr. Chairman?

Mr. GAINES of Tennessee. It is a letter addressed to Attorney-General Griggs asking him the date and name of the cases that had been filed under the antitrust act, known as the Sherman law, from the enactment of that law down to that date—May 31, 1900. It is an official letter.

Mr. CANNON. It has been printed in the RECORD.

Mr. GAINES of Tennessee. It has. I want to correct a statement made by the gentleman from Ohio to-day.

Mr. CANNON. Now, having been printed in the RECORD once, I shall object to it being printed again. If it had not been printed I would not object.

The CHAIRMAN. Objection is made.

The Clerk read as follows:

SEC. 3. That the appropriations herein made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons permanently incapacitated for performing such service.

Mr. ROBINSON of Indiana. Mr. Chairman, I desire to propose an amendment to line 22. Strike out the word "permanently" and insert "incompetent or," so as to read, the compensation of the employees provided for shall not be given to "persons incompetent or incapacitated" from the performance of such service. I think the committee will have no objection.

Mr. BINGHAM. We have no objection here.

The Clerk read as follows:

In line 22, page 141, strike out the word "permanently" and insert in lieu thereof the words "incompetent or."

The question was taken, and the amendment was agreed to.

Mr. CANNON. Mr. Chairman, I ask unanimous consent to turn back to page 14, line 19, and offer the following amendment:

The Clerk read as follows:

On page 14, line 19, after the word "dollars," insert "and \$1,000 additional while the office is held by the present incumbent."

The CHAIRMAN. Is there objection?

Mr. RICHARDSON of Tennessee. I will state that I have not a copy of the bill before me.

Mr. CANNON. I will state to the gentleman what the amendment is.

Mr. RICHARDSON of Tennessee. Reserving the right to object, I would be glad to have the gentleman make an explanation.

Mr. CANNON. I think the committee ought to understand the amendment before giving its consent.

Mr. GAINES of Tennessee. What page is the proposed amendment on?

Mr. CANNON. Page 14, line 19. The matter I seek to amend reads as follows: "Clerk to the Committee on Appropriations, \$3,000." The Clerk will now please read the amendment.

The Clerk read as follows:

On page 14, line 19: "and \$1,000 additional while the office is held by the present incumbent."

Mr. CANNON. I offer that amendment because I believe it ought to be adopted. A single word and I am ready for a vote. If there is any objection, as I hope there will not be, the present—

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. RICHARDSON of Tennessee. So far as I am concerned, I am prepared to say there is no objection. I do not make that statement because the gentleman affected by it happened to live in my State a great many years ago, but because I know he deserves it.

The CHAIRMAN. The Chair hears no objection.

Mr. CANNON. Just a single word in justification of this amendment. This is not an ordinary amendment. The clerk of the Committee on Appropriations now receives \$3,000. He has been clerk to that committee for a quarter of a century. He is now 48 or 49 years of age. We have had genuine civil service in the Committee on Appropriations in the selection and retention of its clerk ever since its organization. Most committee clerks change as the House changes. This one has not changed. Under all organizations of the House he has remained. I have no hesitation in saying, from the standpoint of integrity, intelligence, and usefulness to the House, that while the present incumbent holds that place a thousand dollars additional is under rather than over compensation. But gentlemen understand the work of this committee and the efficiency of its clerk. He is here substantially all the year long, in vacation as well as during the session, and perhaps more nearly an encyclopedia touching the public service than any man in my acquaintance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and the amendment was agreed to. [Loud applause.]

The Clerk continued and concluded the reading of the bill.

Mr. BINGHAM. Mr. Chairman, I now move that the bill and amendments be reported to the House with the recommendation that the same do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MONDELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16031, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be adopted and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded upon any of the amendments? If not, they will be submitted in gross by the Chair.

The question was taken on the amendments in gross; and they were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. BINGHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

#### LEAVES TO WITHDRAW PAPERS FROM THE FILES.

By unanimous consent, Mr. LOUDENSLAGER was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Lucetta Fix in the Fifty-seventh Congress, no adverse report having been made thereon.

Mr. IRWIN was given leave to withdraw from the files of the House, without leaving copies, papers in the case of John W. Neville, Fifty-seventh Congress, no adverse report having been made thereon.

#### CHANGE OF REFERENCE.

By unanimous consent, the following changes of reference were made:

The bill (H. R. 16126) for the relief of pensioners of the Metropolitan Police relief fund, from the Committee on the District of Columbia to the Committee on Appropriations.

The bill (H. R. 15343) further regulating the class of matter denied admission to the mails, from the Committee on the Post-Office and Post-Roads to the Committee on the Judiciary.

The SPEAKER. This brings us to the special and continuing order.

Mr. HEPBURN. Mr. Speaker, with reference to that I desire to say to the House that the gentleman from Ohio who made the report upon the bill 1309 has been called away from the city and is necessarily detained on a very important matter. I know that it is his desire to open this discussion, and I believe it would be for the benefit of the House that he should have this privilege. If there is some other matter that may occupy the attention of the House, I would be glad if it could be called up now without prejudice to that order.

The SPEAKER. On the motion of the gentleman from Iowa this was made the regular and continuing order. The Chair can direct a call of the committees if the gentleman is not ready.

Mr. GROSVENOR. Mr. Speaker, before that call begins, I want to say that the chairman of the Committee on Ways and Means, whom I do not see present just now, has a bill which he proposes to call up at this time. It is a bill of considerable importance, and the committee desires to pass it this afternoon. I have sent for him and hope he will be here in a few moments.

Mr. McCLELLAN. I want to say to the gentleman that the bill was reported from the committee, but I do not think the committee voted to press it this afternoon or at any stated time.

The SPEAKER. The House can not postpone its business to oblige absentees. The Clerk will proceed with the call of committees.

#### EMPLOYMENT OF ENLISTED MEN IN COMPETITION WITH CIVILIANS.

The Clerk called the Committee on Labor.

Mr. BARTHOLDT. Mr. Speaker, there is some unfinished business from the Committee on Labor. A bill was discussed and put on its final passage, and on that vote the gentleman from Michigan [Mr. HENRY C. SMITH] made a point of no quorum, and therefore, I believe, this is the business now.

Mr. UNDERWOOD. Mr. Speaker, the previous question was not ordered on the bill which the gentleman refers to, and I do not think it can be privileged. The House had reached the point where it proposed to vote, and the House adjourned at that time. The previous question was not ordered. It seems to me that if the bill is now in order it can only be in order on the call of committees.

Mr. BARTHOLDT. That is what I claim; that it is an order under the call of committees, and the Committee on Labor has been called.

The SPEAKER. The gentleman from Alabama overlooks the fact that this committee is now on call.

Mr. UNDERWOOD. I did not understand it so. I did not hear the Clerk call that committee.

The SPEAKER. It is clearly in order now as unfinished business.

Mr. UNDERWOOD. But the previous question has not been ordered, and it is open for debate.

The SPEAKER. That is not the question. The matter is before the House. The Clerk will report the resolution by title.

The Clerk read:

House joint resolution 9, in reference to the employment of enlisted men in competition with local civilians.

The SPEAKER. As the Chair is advised of the status of this bill, the House, when it adjourned, was dividing on the engrossment and third reading of the bill, so that the bill had reached that stage for consideration, and at that stage it must resume it as unfinished business. The question is on the engrossment and third reading of the joint resolution.

The question was taken; and the Chair being in doubt, on a division there were—ayes 30, noes 43.

Mr. BARTHOLDT. Mr. Speaker, I ask for the yeas and nays. The question on ordering the yeas and nays was taken.

The SPEAKER. Thirteen gentlemen rising; not a sufficient number, and the yeas and nays are refused, and the House refuses to order the bill to be engrossed and read a third time.

The Clerk proceeded with the call of committees, and when the Committee on Ways and Means was reached:

Mr. PAYNE. Mr. Speaker, I desire to make a privileged report from the Committee on Ways and Means on House bill 15702, to amend an act entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," approved March 8, 1902. I gave notice to the minority of the committee that I would call up the bill to-morrow, but I understand they are willing that it should be called up at this time.

The SPEAKER. The gentleman from New York will understand that we are now on the call of committees, and the bill which he brings in is not on the House Calendar.

Mr. PAYNE. But it is a privileged matter.

The SPEAKER. Not on this call.

Mr. PAYNE. Does the Chair hold that I can not make a privileged report at this time?

The SPEAKER. The Chair holds that when we are on this call we can not be interrupted even with a privileged report.

The Clerk proceeded with the call of committees, and when the Committee on Railways and Canals was reached:

Mr. ROBERTS. Mr. Speaker, I understand the chairman of the Committee on Railways and Canals has a bill on the Calendar which he would like to call up. He is absent to-day, but in his absence I ask that bills of that committee be passed without prejudice.

The SPEAKER. The gentleman from Massachusetts asks that the bills from the Committee on Railways and Canals be passed without prejudice. Is there objection. [After a pause.] The Chair hears none.

Mr. HOPKINS. Mr. Speaker, when the Committee on Census was called I was out of the Chamber. I was not aware that the Speaker was to call the committees, and I ask unanimous consent that the Clerk may go back to the Census Committee.

The SPEAKER. The gentleman from Illinois asks that the Clerk recur to the Census Committee. Is there objection?

Mr. UNDERWOOD. I would like to inquire, Mr. Speaker, what bill it is that the gentleman wants to take up?

Mr. HOPKINS. It is Senate bill 1893, to transfer the records of various censuses to the Census Office. It is a bill favored by the committee.

Mr. RICHARDSON of Tennessee. Was this bill unanimously reported by the Senate committee?

Mr. HOPKINS. Yes, sir.

Mr. KLUTTZ. It was unanimously reported by the Senate committee and also by the House committee.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. HOPKINS] that the Committee on the Census be recurred to?

There was no objection.

#### TRANSFER OF CENSUS RECORDS.

The bill (S. 1893) providing for the transfer of census records and volumes to the Census Office, and for other purposes, was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Interior be, and he hereby is, authorized and directed to transfer to the Census Office all of the schedules, records, and volumes of reports of the 11 decennial enumerations from 1790 to 1890, inclusive, that may be in the possession of the Department of the Interior, which transfer shall not change the allotment of such reports heretofore made to Senators and Representatives; and the Director of the Census is hereby authorized, upon the request of a governor of any State or Territory, or the chief officer of any municipal government, to furnish such governor or municipal officer with copies of so much of said files or records as may be requested, at the discretion of the Director of the Census, upon payment of the actual cost of making such copies; and the amounts so received shall be covered into the Treasury of the United States, to be placed to the credit of and in addition to the appropriation made for the taking of the census.

Mr. HOPKINS. This bill, I think, explains itself. I will not take up time in discussing it, but will ask for a vote.

The question being taken, the bill was ordered to a third reading, read the third time, and passed.

On motion of Mr. HOPKINS, a motion to reconsider the last vote was laid on the table.

#### MILITARY BADGES.

Mr. MONDELL. I ask unanimous consent that the Committee on Military Affairs be recurred to.

Mr. RICHARDSON of Tennessee. We should like to know what bill the gentleman desires to call up.

Mr. MONDELL. Senate joint resolution No. 57.

Mr. RICHARDSON of Tennessee. Let the resolution be reported, reserving the right to object.

The SPEAKER. Without objection, the joint resolution will be reported.



The joint resolution (S. R. 57) relating to military badges was read, as follows:

*Resolved, etc.,* That the distinctive badges adopted by military societies of men who served in the armies and navies of the United States during the Chinese relief expedition of 1900 may be worn upon all occasions of ceremony by officers and men of the Army and Navy of the United States who are members of said organization in their own right.

Mr. RICHARDSON, of Tennessee. Mr. Speaker, still reserving the right to object, I should like the gentleman to explain the effect of this joint resolution.

Mr. MONDELL. It is similar to a number of resolutions which have been adopted. It authorizes the officers and men of the Army and Navy of the United States who participated in the expedition which relieved the legations at Peking to wear the distinctive badges which have been adopted by the society which those men have organized.

There being no objection, the House proceeded to the consideration of the joint resolution, which was ordered to a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

The SPEAKER. The Clerk will now proceed with the call.

The call of committees was resumed and concluded.

The SPEAKER. The Chair will now recognize the gentleman from New York [Mr. PAYNE], if he so desires, upon the privileged matter referred to some time ago.

Mr. PAYNE. If I am in order now, I would like to have the bill read.

The bill (H. R. 15702) to amend an act entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," approved March 8, 1902, was read.

Mr. RICHARDSON of Tennessee. In reply to the statement made a few moments ago by the gentleman from New York, I will say that what he stated is true. When this bill was reported this morning some members of the minority did say that if the bill was to be taken up to-morrow it might just as well be taken up to-day, because they would not have any more opportunity to-morrow to examine the report and make answer to it than they would have to-day. But the gentleman from New York stated that the bill would not be called up until to-morrow; and I know that some members of the minority, especially one member of the minority of the Committee on Ways and Means, have left the House with the understanding that the bill would not be called up until to-morrow.

Mr. PAYNE. All right. Then I give notice that I will endeavor to call it up to-morrow immediately after the reading of the Journal.

Mr. McCLELLAN. It is understood that I have the right to file the views of the minority before adjournment to-day?

Mr. PAYNE. There is no objection to that.

Mr. HEPBURN. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 2 o'clock and 30 minutes p. m.) the House adjourned.

#### EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following Executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Interior, inviting attention to the claim of Jean Florentine Poirer—to the Committee on Private Land Claims, and ordered to be printed.

A letter from the Secretary of War, transmitting a report of the annual inspection of the several Branches of the National Home for Disabled Volunteer Soldiers—to the Committee on Military Affairs, and ordered to be printed.

A letter from the Assistant Clerk of the Court of Claims, transmitting a copy of the conclusions of fact and law in the French spoliation cases, relating to the ship *Briseis*, James Breath, master, against The United States—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of appropriation for National Home for Disabled Volunteer Soldiers—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of appropriation for Western Branch of National Home for Disabled Volunteer Soldiers—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, asking the cancellation of the estimate for keeper's dwelling at Race Point light station—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, asking the correction of the estimate for Minots Ledge light station—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a statement of the employees in the Light-House Establishment and

their compensation—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of appropriation for purchase of battlefield at Balls Bluff, Virginia—to the Committee on Military Affairs, and ordered to be printed.

A letter from the chairman of the Interstate Commerce Commission, transmitting the annual report—to the Committee on Interstate and Foreign Commerce, and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. BRUNDIDGE, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 15708) to extend the time for the completion of the incline railway on West Mountain, Hot Springs Reservation, reported the same without amendment, accompanied by a report (No. 2906); which said bill and report were referred to the House Calendar.

Mr. PAYNE, from the Committee on Ways and Means, to which was referred the bill of the House (H. R. 15702) to amend an act entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," approved March 8, 1902, reported the same without amendment, accompanied by a report (No. 2907); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14930) granting a pension to William H. Houseal, reported the same with amendments, accompanied by a report (No. 2883); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15789) granting a pension to Benjamin Cooper, reported the same with amendments, accompanied by a report (No. 2884); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15558) granting an increase of pension to David A. Baldwin, reported the same with amendments, accompanied by a report (No. 2885); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14195) granting an increase of pension to David T. Towles, reported the same with amendments, accompanied by a report (No. 2886); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5118) granting an increase of pension to Adam Stuber, reported the same with amendment, accompanied by a report (No. 2887); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3302) granting a pension to Henry G. Wheeler, reported the same with amendments, accompanied by a report (No. 2888); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15064) granting an increase of pension to Frederick Shovar, reported the same with amendment, accompanied by a report (No. 2889); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2353) granting an increase of pension to Almond Partridge, reported the same without amendment, accompanied by a report (No. 2890); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3503) granting an increase of pension to E. H. Brady, reported the same with amendments, accompanied by a report (No. 2891); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3397) granting an

increase of pension to Eliza A. Walker, reported the same without amendment, accompanied by a report (No. 2892); which said bill and report were referred to the Private Calendar.

Mr. SAMUEL W. SMITH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1829) granting an increase of pension to George W. Brill, reported the same with amendment, accompanied by a report (No. 2893); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15386) granting a pension to Mary J. Cleaves, widow of George S. McCarrison, reported the same with amendments, accompanied by a report (No. 2894); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14518) granting an increase of pension to James D. Kiper, reported the same with amendments, accompanied by a report (No. 2895); which said bill and report were referred to the Private Calendar.

Mr. DARRAGH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12315) granting an increase of pension to Henry M. Posey, reported the same with amendments, accompanied by a report (No. 2896); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15771) granting an increase of pension to Adam Kohlhauff, reported the same with amendments, accompanied by a report (No. 2897); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12812) granting an increase of pension to Otis T. Hooper, reported the same without amendment, accompanied by a report (No. 2898); which said bill and report were referred to the Private Calendar.

Mr. APLIN, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13534) granting an increase of pension to James Evans, reported the same with amendments, accompanied by a report (No. 2899); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11625) granting an increase of pension to Alexander H. Taylor, late of Company E, Twelfth Connecticut Volunteer Infantry, now a resident of Norwalk, Conn., reported the same with amendments, accompanied by a report (No. 2900); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15550) granting a pension to Mary A. Hinkle, reported the same with amendments, accompanied by a report (No. 2901); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10350) granting a pension to Rebecca Piper, foster mother of Simpson Eaton, reported the same with amendments, accompanied by a report (No. 2902); which said bill and report were referred to the Private Calendar.

Mr. DARRAGH, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9734) increasing the pension of John P. Peterman, reported the same with amendments, accompanied by a report (No. 2903); which said bill and report were referred to the Private Calendar.

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 13530) for the relief of Ephraim Greenawalt, reported the same without amendment, accompanied by a report (No. 2904); which said bill and report were referred to the Private Calendar.

Mr. OTJEN, from the Committee on War Claims, to which was referred the resolution of the House (H. Res. 362) referring certain claims to the Court of Claims for findings of fact under the terms of the Tucker Act, reported the same with amendments, accompanied by a report (No. 2905); which said resolution and report were referred to the Private Calendar.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 15635) granting an honorable discharge to Thomas J. Cable—Committee on Military Affairs discharged, and referred to the Committee on Naval Affairs.

A bill (H. R. 3504) granting a pension to Grace Ashton Negley—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 15827) granting a pension to Grace Ashton Negley—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 16050) for the relief of James I. Mabee—Committee on Invalid Pensions discharged, and referred to the Committee on Claims.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred, as follows:

By Mr. GLASS: A bill (H. R. 16202) fixing the times and places for holding regular terms of the United States circuit and district courts in the western district of Virginia, and for other purposes—to the Committee on the Judiciary.

By Mr. NEEDHAM: A bill (H. R. 16203) to increase the limit of cost for the purchase of a site and erection of a public building at Fresno, Cal.—to the Committee on Public Buildings and Grounds.

By Mr. GARDNER of New Jersey: A bill (H. R. 16204) for the establishment of a light-ship with fog signals at Brigantine Shoal, off the coast of New Jersey—to the Committee on Interstate and Foreign Commerce.

By Mr. CONRY: A bill (H. R. 16205) to provide for the erection of a public building at Boston, Mass.—to the Committee on Public Buildings and Grounds.

By Mr. FOWLER: A bill (H. R. 16228) providing for the issue and circulation of national-bank notes—to the Committee on Banking and Currency.

By Mr. LAMB: A resolution (H. Res. 366) that a messenger is hereby appointed to serve in the room assigned to the minority of the House, to be paid out of the contingent fund of the House at the rate of \$100 per month until otherwise provided for—to the Committee on Accounts.

#### PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BARTHOLDT: A bill (H. R. 16206) for the relief of James Dickens, late of Company B, Pacific Battalion Missouri Home Guard Volunteers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16207) to grant a pension to Edward Cahalan—to the Committee on Invalid Pensions.

By Mr. BENTON: A bill (H. R. 16208) for the relief of Harmon Conley—to the Committee on War Claims.

By Mr. BOREING: A bill (H. R. 16209) for the relief of William Wallbrecht, receiver—to the Committee on Claims.

By Mr. BURK of Pennsylvania: A bill (H. R. 16210) granting an increase of pension to John C. Callahan—to the Committee on Invalid Pensions.

By Mr. CASSINGHAM: A bill (H. R. 16211) granting an increase of pension to John Cummings—to the Committee on Invalid Pensions.

By Mr. COWHERD: A bill (H. R. 16212) granting an increase of pension to Sanders W. Johnston—to the Committee on Pensions.

By Mr. FOERDERER: A bill (H. R. 16213) granting an increase of pension to George P. Wood—to the Committee on Invalid Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 16214) granting a pension to Sarah A. Sullivan—to the Committee on Invalid Pensions.

By Mr. LAWRENCE: A bill (H. R. 16215) granting a pension to Laura A. Hoyt—to the Committee on Invalid Pensions.

By Mr. MADDOX: A bill (H. R. 16216) for the relief of Wells B. Whitmore, of Cobb County, Ga.—to the Committee on Claims.

By Mr. PADGETT: A bill (H. R. 16217) granting an increase of pension to Julia E. Jones—to the Committee on Pensions.

Also, a bill (H. R. 16218) for relief of William G. Tidwell—to the Committee on War Claims.

By Mr. REEDER: A bill (H. R. 16219) granting an increase of pension to William J. Hart—to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD (by request): A bill (H. R. 16220) donating to Camden County, Mo., all public lands within its borders for building a court-house therein—to the Committee on the Public Lands.

By Mr. SHAFROTH: A bill (H. R. 16221) granting an increase of pension to Gideon Wright—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16222) for the relief of Samuel Gates—to the Committee on Military Affairs.

By Mr. SULLOWAY: A bill (H. R. 16223) granting an increase of pension to Henry S. McAllister—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16224) granting an increase of pension to William Montgomery—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Mississippi: A bill (H. R. 16225) for the relief of Sarah McClenahan—to the Committee on Pensions.



Also, a bill (H. R. 16226) for the relief of Eli H. Rhodes—to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 16227) granting a pension to R. C. Worthington—to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of the General Assembly of the Presbyterian Church, Pittsburg, Pa., to enact laws prohibiting the sale of intoxicating liquors in Soldiers' Homes, in Government buildings, and in immigrant stations—to the Committee on Alcoholic Liquor Traffic.

By Mr. ADAMS: Resolutions of the Philadelphia Board of Trade, in opposition to the passage of House bill 8076, limiting the hours of daily service of laborers—to the Committee on Labor.

By Mr. ALEXANDER: Resolutions of the Manufacturers' Club of Buffalo, N. Y., favoring bill to grant permission to the Mather Power Bridge Company to erect experimental span in Niagara River at Buffalo, N. Y.—to the Committee on Interstate and Foreign Commerce.

By Mr. BARTHOLDT: Petition of St. Louis Union, No. 6, International Brotherhood of Firemen, for an increase of the pay of firemen in the United States service—to the Committee on Appropriations.

Also, resolutions of the Art League of St. Louis, Mo., asking for the repeal of duty on imported works of art fifty years or more of age—to the Committee on Ways and Means.

Also, resolutions of the Commercial Club of Kansas City, Mo., in favor of the admission to statehood of Oklahoma, New Mexico, Arizona, and Indian Territory—to the Committee on the Territories.

Also, petition of St. Louis Central Trades and Labor Union, indorsing House resolution 9, prohibiting the competition of enlisted men with civilians—to the Committee on Labor.

Also, petitions of citizens and business firms of St. Louis, Mo., favoring House bills 178 and 179—to the Committee on Ways and Means.

By Mr. BOWERSOCK: Petition of the heirs of Thomas J. Ingraham, praying reference of war claim to the Court of Claims—to the Committee on War Claims.

Also, petition of Franklin Post, No. 69, Grand Army of the Republic, of Olathe, Kans., to accompany House bill granting a pension to Andrew J. Baucum—to the Committee on Invalid Pensions.

By Mr. BUTLER of Pennsylvania: Petitions of the Friends Meeting and the Baptist Church of Oxford, Pa., for the further restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. CASSEL: Petition of G. W. Hackenberger, of Bainbridge, Pa., for the enactment of House bill 178, for reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. DRAPER: Petition of Bartenders' Alliance, Troy, N. Y., indorsing the proposed eight-hour law—to the Committee on Labor.

By Mr. FOERDERER: Petition of the Clawson Company, of Philadelphia, Pa., urging the reduction of the tax on alcohol—to the Committee on Ways and Means.

Also, papers to accompany House bill granting an increase of pension to George P. Wood—to the Committee on Invalid Pensions.

By Mr. GORDON: Petition of citizens of St. Marys, Ohio, asking for favorable action upon the bill reducing the tax on liquor—to the Committee on Ways and Means.

Also, papers to accompany House bill 15944 granting an increase of pension to Joseph N. Carter—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of the Woman's Christian Temperance Union of Allegheny County, Pa., asking for the continuance of the anticanon law, and opposing the admittance of New Mexico and Arizona to statehood without an antipolygamy provision—to the Committee on Military Affairs.

Also, petition of the Keystone Watch Case Company, Philadelphia, Pa., against the passage of the eight-hour bill—to the Committee on Labor.

By Mr. GROSVENOR: Petition of G. W. Cramer and other citizens of Urbana, Ohio, urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. HEMENWAY: Petition of American Pharmacal Company and others, of Evansville, Ind., in favor of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. HOWELL: Petition of Wheeler Condenser and Engi-

neering Company, of Cartaret, N. J., favoring the Lovering customs drawback law—to the Committee on Ways and Means.

By Mr. WILLIAM W. KITCHIN: Petitions of the F. R. Penn Tobacco Company, Reidsville, N. C., and F. Goolsby, Madison, N. C., urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. PADGETT: Papers to accompany House bill relating to the claim of William G. Tidwell—to the Committee on War Claims.

Also, papers to accompany bill granting a pension to Mrs. J. L. Jones, widow of a soldier of the Mexican war—to the Committee on Pensions.

By Mr. RIXEY: Petition of heirs of John T. Armstrong, deceased, of Alexandria, Va., for reference of war claim to the Court of Claims—to the Committee on War Claims.

By Mr. RYAN: Petitions of John O. Manning and 113 others, Delaney & O'Brian and 42 others, all citizens of Buffalo, N. Y., favoring bill to grant permission to the Mather Power Bridge Company to erect experimental span in Niagara River at Buffalo, N. Y.—to the Committee on Interstate and Foreign Commerce.

By Mr. HENRY C. SMITH: Petition of Joseph B. Davis, praying reference of war claim to the Court of Claims—to the Committee on War Claims.

By Mr. THOMAS of North Carolina: Petition of Henry Lee and others for the improvement of White Oak River—to the Committee on Rivers and Harbors.

By Mr. WILLIAMS of Mississippi: Papers to accompany House bill granting a pension to Eli H. Rhodes, a soldier in the Indian wars in Florida—to the Committee on Pensions.

Also, petition of Sarah McClenachan for a pension—to the Committee on Pensions.

By Mr. YOUNG: Petition of Burnham, Williams & Co., Philadelphia, Pa., favoring House bill 15368, amending the customs drawback law—to the Committee on Ways and Means.

Also, petition of the National Live Stock Association, favoring the passage of House bills 14488 and 14643—to the Committee on Ways and Means.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, December 18, 1902.

The House met at 12 o'clock m., and was called to order by the Clerk, who read the following communication:

DECEMBER 18, 1902.

I hereby designate Hon. JOHN DALZELL, of Pennsylvania, to perform the duties of the Chair this day.

D. B. HENDERSON, Speaker.

The SPEAKER pro tempore having taken the chair, prayer was offered by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

#### VENEZUELA.

Mr. HITT. Mr. Speaker, by direction of the Committee on Foreign Affairs, I submit a privileged report, two resolutions of inquiry, Nos. 352 and 363. The committee instructs me to recommend the adoption of No. 363, and that No. 352 lie on the table. I will send them to the desk, and ask that resolution No. 352 be read.

The resolution was read, as follows:

*Resolved*, That the honorable Secretary of State be, and he is hereby, requested to inform the House, at the earliest date practicable, and so far as he may be able to do, of the nature and extent of the claims of Great Britain and Germany, respectively, against Venezuela; whether the correctness or rightfulness of said claims, in whole or in part, is disputed by Venezuela; what effort, if any, and by whom, if anybody, has been made to settle peaceably, by arbitration or otherwise, the matters, or any of the matters, the subject of controversy between Venezuela upon the one side and Great Britain or Germany upon the other, and with what result, if any, with full particulars; what, if any, part the United States have taken or are taking in the controversy aforesaid; whom, if any, of the officers of the United States have been consulted by any of the parties to the said controversy, and in regard to what matter or matters, and with what result; what, if anything, has been said or done by the United States with relation to the Monroe doctrine and its due and respectful observance in the transactions with reference to the British and German claims against Venezuela, or any of them; to what extent, if any, the United States have been consulted or conferred with as to the substance, or application, or applicability of the Monroe doctrine to the Venezuela question aforesaid, and with what result; what, if anything, the United States have done, or are doing, to insure, or toward insuring, respect for the Monroe doctrine in and concerning Venezuela, and the result of such efforts, if any; and whether, in his judgment, the United States can, by a firm assertion of the Monroe doctrine, bring about, or aid in bringing about, a peaceful and fair adjustment of the disputes between the nations aforesaid, so as to have fully respected the principles of the Monroe doctrine and to preserve the governmental and territorial integrity and independence of Venezuela.

Mr. HITT. Mr. Speaker, for the better understanding of the action proposed, I ask for the reading of No. 363.

Resolution No. 363 was read, as follows:

*Resolved*, That the Secretary of State be directed, if not incompatible with the public interests, to inform the House of Representatives touching any understanding or agreement between the Governments of Great Britain and Germany on the one hand and the diplomatic officers of the United States on